

EXHIBITS*

On behalf of Petitioner:

- ✓ P-1 Notice of Civil Administrative Penalty Assessment, October 7, 1981 (4 pages with attachments)
- ✓ P-2 Kuehne's application for a National Pollutant Discharge Elimination System permit, September 26, 1974 (2 pages)
- ✓ P-3 NPDES permit issued to Kuehne, July 14, 1980 (18 pages)
- ✓ P-4 Monitoring report, prepared by Kuehne, February 10, 1981 with mailer
- P-6 Memorandum from Charles L. Johnson to Charles L. Maack, stamped February 24, 1981
- ✓ P-7B Public notice of formulation of draft NPDES permit, March 21, 1980 (3 pages)
- P-9I Photograph of catch basin
- ✓ P-9J Photograph of various piping and connections to Kuehne's processing facility
- P-10 Garden State Laboratories, Inc. sampling report, January 26, 1981 (2 pages)
- P-11 Garden State Laboratories, Inc. sampling report, January 28, 1981 (4 pages)
- ✓ P-12A through E Five diagrams related to the Kuehne Chemical Company operation submitted by the petitioner at the request of the administrative law judge, as an incident to the decision on Kuehne's motion for dismissal and the Division's crossmotion for summary decision

On behalf of Respondent:

- ✓ R-1 Letter from Richard R. Width, Esq. to Michael Diamond, October 27, 1981 (4 pages)
- ✓ R-4 "Field Procedures Manual for Water Data Acquisition," issued by the Division of Water Resources, November 1980 (unpaginated)

*While all exhibits were consecutively numbered when marked for identification, not all exhibits were ultimately moved into evidence. This accounts for the numerical gaps in the listings.

- ✓ R-7 Civil action complaint issuing in the matter Linden Chemicals and Plastics Inc. v. Kuehne Chemical Company, Inc., Superior Court of New Jersey, Law Division: Union County, Docket No. L-11734-80, filed October 31, 1980 (13 pages)
- ✓ R-8 Letter from C. A. Hansen to Kuehne Chemical Company, to the attention of Roger Goetzel, January 27, 1981
- R-9 Diagram of Kuehne/LCP facility, captioned "Drawing No. 101"
- ✓ R-14a, b, c Three diagrams of various perspectives of Kuehne's processing facility, two of which are captioned, "drawings no. 102 and 103." The third (R-14c) was handprepared as an incident to the testimony of Mr. Goetzel
- ✓ R-15 Department of Environmental Protection, phone call report, prepared by Charles Maack in respect to a telephone call with Joseph Larkin, February 13, 1981
- ✓ R-16 Letter from W. J. Fledderman, LCP plant manager, to Charles Johnson, February 18, 1981



P1

OCT 7, 1981

X.P. 4/7/80

State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF WATER RESOURCES

P. O. BOX CN 029

TRENTON, NEW JERSEY 08625

ARNOLD SCHIFFMAN
DIRECTOR

*allegation re 1/16, 1/25, 1/26/81.
Q's 1-8*

IN THE MATTER OF

: NOTICE OF CIVIL

KUEHNE CHEMICAL COMPANY, INCORPORATED : ADMINISTRATIVE PENALTY ASSESSMENT

The following FINDINGS are made, and NOTICE issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter NJDEP) and duly delegated to the Director of Water Resources by N.J.S.A. 13:1D-1 et seq., N.J.S.A. 13:1B-5, and the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

FINDINGS OF FACT

1. On September 27, 1974, Kuehne Chemical Company, Inc. (hereinafter Kuehne), City of Linden, New Jersey applied to the United States Environmental Protection Agency (hereinafter USEPA) for a National Pollutant Discharge Elimination System (hereinafter NPDES) permit. Question 14 of the NPDES application (Short Form C) asks: "Does your discharge contain or is it possible for your discharge to contain one or more of the following substances added as a result of your operations, activities, or processes: ammonia, cyanide, aluminum, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, zinc, phenols, oil & grease, and chlorine (residual)." Kuehne answered "no" to this question. Kuehne stated on the permit application that it sought authorization for the discharge of uncontaminated cooling waters only.
2. On July 14, 1980, the Regional Administrator, Region II, USEPA pursuant to the Federal Water Pollution Control Act Amendments of 1972 (P. L. 92-500) issued a NPDES permit No. NJ 0027707 to Kuehne. Said permit was for the discharge of uncontaminated cooling waters only from the Linden plant.
3. In accordance with Part I, Condition A and Part III Condition B. I. of the said permit for Discharge Serial Number 001 (DSN 001), Kuehne was permitted to discharge from a pipe identified as DSN 001, for the period from August 31, 1980 through August 31, 1985, an effluent having the following characteristics. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units; and the chlorine residual (total) shall not exceed .002 mg/l on a 30 day average.

4. This discharge was conveyed to the receiving water course via a buried pipe which traversed the property of Linden Chlorine Products (hereinafter LCP). On January 1, 1981, LCP officials observed the discharges of effluent from Kuehne's outfall DSN 001 which they believed might have violated Kuehne's NPDES permit limitations.
5. On January 8, 1981, a NJDEP representative visited the Kuehne facility to inspect the discharge pipe permitted by No. NJ 0027707. NJDEP and LCP representatives collected and split samples approximately one hundred (100) feet downstream from Kuehne's outfall DSN 001. These were collected hourly between 1:00 p.m. and 6:00 p.m. Analyses of these samples (see following table) revealed pH levels (both high and low) and high concentrations of alkalinity and chloride.

<u>LCP Lab</u>				<u>NJDEP Lab</u>	
<u>Sample</u>	<u>Location</u>	<u>Time</u>	<u>pH</u>	<u>Alkalinity</u> <u>(mg/l)</u>	<u>Chloride</u> <u>(mg/l)</u>
C-12838	in flume 100' from Kuehne's outfall DSN 001	1:00 p.m.	10.06	470.7	5550
C-12839	in flume 100' from Kuehne's outfall DSN 001	2:00 p.m.	10.52	485.1	3050
C-12840	in flume 100' from Kuehne's outfall DSN 001	3:15 p.m.	9.19	711.1	3550
C-12842	in flume 100' from Kuehne's outfall DSN 001	4:15 p.m.	4.70	0	3500
C-12844	in flume 100' from Kuehne's outfall DSN 001	5:15 p.m.	9.98	496.5	3250
No #	Kuehne's outfall DSN 001	6:00 p.m.	2.62	n o t	a n a l y z e d

6. On January 15 & 16, 1981, Garden State Laboratories, consultants for LCP, conducted hourly sampling of Kuehne's NPDES permitted outfall DSN 001. The consultants analyzed the samples in LCP's laboratory immediately after each sample was taken. The laboratory results revealed pH levels (up to 10.16) in violation of Kuehne's NPDES permit pH limits and extremely high concentrations of free chlorine and caustics (See Table I in appendix). The aforementioned conditions or activities are not in conformance with Part I, Condition A and Part III, Condition B. I. of the aforementioned NPDES Permit; therefore, Kuehne is in violation of N.J.S.A. 58:10A-1 et seq.

7. On January 25 & 26, 1981, Garden State Laboratories again conducted hourly sampling of Kuehne's NPDES permitted outfall DSN 001. Analyses of these samples revealed pH levels (up to 11.44) in violation of Kuehne's NPDES permit pH limits, and extremely high concentrations of free chlorine and caustics (See Table II in appendix). Free chlorine was present in concentrations as high as 124,430 mg/l. This is similar to the concentration of chlorine found in bleach, a product manufactured by Kuehne. The aforementioned conditions or activities are not in conformance with Part I, Condition A and Part III, Condition B. I. of the aforementioned NPDES permit, therefore, Kuehne is in violation of N.J.S.A. 58:10A-1 et seq.
8. On January 26, 1981, a NJDEP representative visited Kuehne and observed a valve connecting Kuehne's filtering process pipe to the NPDES permitted outfall DSN 001 pipe. The inspector directed Mr. Scott L. Charlop, Manufacturing Manager of Kuehne, to immediately remove this connection. This connection had provided a physical conduit for the passage of pollutants into the waters of the State.
9. On January 27, 1981, a NJDEP representative inspected Kuehne and observed that the aforementioned connection had been removed.
10. On January 27, 1981, Kuehne ceased operations and closed the plant.
11. The discharge of pH and free chlorine in excess of the limitations contained in NPDES permit No. NJ 0027707 is a violation of N.J.S.A. 58:10A-1 et seq.

NOTICE OF INTENT TO ASSESS A CIVIL ADMINISTRATIVE PENALTY

12. Based upon the above findings, NJDEP intends to assess a civil administrative penalty pursuant to N.J.S.A. 58:10A-10 (d) and N.J.A.C. 7:14-8.1 et seq. for submitting false information in a NPDES permit application, discharging pollutants not listed in the NPDES permit, and exceeding effluent limits of the permit.
13. Based upon a review of the criteria contained in N.J.A.C. 7:14-8.10, and N.J.S.A. 58:10A-10 NJDEP has determined that the amount of the penalty shall be \$17,500.

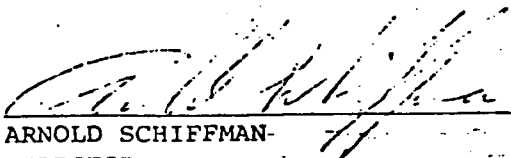
14. NOTICE IS HEREBY GIVEN THAT pursuant to N.J.S.A. 52:14B-1 et seq., and N.J.S.A. 58:10A-10 (b) and (d) Kuehne is entitled to a hearing before NJDEP. Any hearing request shall be delivered to the address below within twenty (20) days from receipt of this Notice. The hearing request shall be mailed to:

Michael Diamond, Administrator
Enforcement & Regulatory Services Element
Division of Water Resources
P. O. Box CN-029
Trenton, New Jersey 08625

15. NOTICE IS FURTHER GIVEN THAT pursuant to N.J.S.A. 52:14B-9 (b) (4) and N.J.A.C. 15:15-10.2 (b) (4), the applicant in its application for a hearing shall furnish NJDEP with a definite and detailed statement of the matters it will assert in the requested hearing. Any request for a hearing must include a written statement specifying with particularity:
- (a) Any of the Findings of Fact set forth above, or specific portion thereof, which the applicant disputes;
 - (b) The applicant's counterstatement of any facts so disputed; and
 - (c) The Notice provisions to which the applicant objects, the reason for such objections, and any alternative provisions proposed by the applicant.
16. NOTICE IS FURTHER GIVEN THAT if no request for a hearing is received within twenty (20) days, this NOTICE shall become final and the Penalty is due immediately thereafter. Payment may be made to the Department of Environmental Protection at the above address.
17. NOTICE IS FURTHER GIVEN THAT pursuant to N.J.S.A. 58:10A-10 (e) any person who fails to pay the Civil Administrative Penalty in full after it is due shall be subject to civil penalties of up to \$10,000 per day for each day of violation.
18. NOTICE IS FURTHER GIVEN THAT pursuant to N.J.S.A. 58:10A-10 (f) willful or negligent violation of N.J.S.A. 58:10A-1 et seq. is a misdemeanor punishable, upon conviction, by criminal penalties of up to \$25,000 per day of violation.

This NOTICE shall be effective upon receipt.

DATE: OCT 7 1981


ARNOLD SCHIFFMAN
DIRECTOR

RATIONALE FOR FINE AMOUNT

✓ Violation

Exceeding effluent limits of NPDES permit on January 15-16, 1981.

Seriousness

The discharge of an effluent containing high pH into a tributary of the Arthur Kill River is likely to cause slight damage to the environment.

(Factor = 0.5)

Type

A discharge containing high concentrations of free chlorine and caustics is uncharacteristic of non-contact cooling water. The introduction of such pollutants into the permitted outfall DSN 001 line therefore constitutes a willful discharge.

(Factor = 1.0)

Penalty Formula

(\$5,000) (0.5) (1.0) = \$2,500

\$ 1875.00

✓ Violation

Exceeding effluent limits of NPDES permit on January 25-26, 1981.

Seriousness

The discharge of an effluent containing high pH to a tributary of the Arthur Kill River is likely to cause slight damage to the environment.

(Factor = 0.5)

Type

A discharge containing high concentrations of free chlorine and caustics is uncharacteristic of non-contact cooling water. The introduction of such pollutants into the permitted outfall DSN 001 line therefore constitutes a willful discharge.

(Factor = 1.0)

Penalty Formula

(\$5,000) (.05) (1.0) = \$2,500

\$ 1875.00

✓ Violation

Discharging pollutants, not listed in Kuehne's NPDES permit application, on January 15-16, 1981.

Seriousness

The discharge of gross quantities of caustics and free chlorine to a tributary of the Arthur Kill River is likely to cause moderate damage to the environment.

(Factor = 0.75)

Type

The effluent discharge containing high concentrations of caustics and free chlorine is uncharacteristic of non-contact cooling water. The dumping of these pollutants into the DSN 001 outfall line constitutes a willful discharge.

(Factor = 1.0)

Penalty Formula

(\$5,000) (0.75) (1.0) = \$3,750

4281250

Violation

Discharging pollutants, not listed in Kuehne's NPDES permit application, on January 25-26, 1981.

Seriousness

The discharge of gross quantities of caustics and free chlorine to a tributary of the Arthur Kill River is likely to cause moderate damage to the environment.

(Factor = 0.75)

Type

The effluent discharge containing high concentrations of caustics and free chlorine is uncharacteristic of non-contact cooling water. The dumping of these pollutants into the DSN 001 outfall line constitutes a willful discharge.

(Factor = 1.0)

Penalty Formula

(\$5,000) (0.75) (1.0) = \$3,750

Non-discharge Violation

Submitting false information on a NPDES permit application. Kuehne stated that their discharge would be cooling water only; however, on January 26, 1981, a filtering process line was observed to be connected to their discharge pipe allowing the discharge of other pollutants.

Basic Penalty = \$5,000

Total Penalty = \$5,000 + (2) (3,750) + (2) (\$2,500) = \$17,500

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
APPLICATION FOR PERMIT TO DISCHARGE - SHORT FORM C

To be filed only by persons engaged in manufacturing and mining

Do not attempt to complete this form before reading accompanying instructions
Please print or type

1. Name, address, location, and telephone number of facility producing discharge

A. Name Kuehne Chemical Company Inc.
B. Mailing address
1. Street address P.O. Box 534 - Ft. of Wood Ave. South, Linden, N.J.
2. City Linden 3. State New Jersey
4. County Union 5. ZIP 07036
C. Location:
1. Street Ft. of Wood Ave. South,
2. City Linden 3. County Union
4. State New Jersey
D. Telephone No. 201 862-1212
Area Code

2. SIC 2812
(Leave blank)

3. Number of employees 40

If all your waste is discharged into a publicly owned waste treatment facility and to the best of your knowledge you are not required to obtain a discharge permit, proceed to item 4. Otherwise proceed directly to item 5.

4. If you meet the condition stated above, check here ☐ and supply the information asked for below. After completing these items, please complete the date, title, and signature blocks below and return this form to the proper reviewing office without completing the remainder of the form.

A. Name of organization responsible for receiving waste _____

B. Facility receiving waste:

1. Name NA
2. Street address _____
3. City _____ 4. County _____
5. State _____ 6. ZIP _____

5. ☒ Principal product, ☐ Raw material (Check one) Sodium Hypochlorite

6. Principal process Absorption of Chlorine Gas into Sodium Hydroxide Solution

7. Maximum amount of principal product produced XXXXXXXXXXXXXXX (Check one)

Basis	Amount							
	1-99 (1)	100-199 (2)	200-499 (3)	500-999 (4)	1000-4999 (5)	5000-9999 (6)	10,000-49,999 (7)	50,000 or more (8)
A. Day							X	
B. Month								
C. Year								

FOR
AGENCY
USE

APPLICATION NUMBER							
N	J	0	0	2	7	7	0
DATE RECEIVED							
7	1	4	0	1	9	2	7
YEAR				MO.		DAY	

PERMITS ADMIN. BRANCH
REGION II
SEP 27 11 38 AM '74
ENVIRONMENTAL PROTECTION
AGENCY
NEW YORK, N.Y. 10007

#1370

8. Maximum amount of principal product produced or raw material consumed, in item 7, above, is measure (check one):

A. ☐ pounds B. ☐ tons C. ☐ barrels D. ☐ bushels E. ☐ square feet
F. ☒ gallons G. ☐ pieces or units H. ☐ other, specify _____

NJ0027707
9-27-74

9. (a) Check here if discharge occurs all year ☒, or

(b) Check the month(s) discharge occurs:

1. ☐ January 2. ☐ February 3. ☐ March 4. ☐ April 5. ☐ May 6. ☐ June
7. ☐ July 8. ☐ August 9. ☐ September 10. ☐ October 11. ☐ November 12. ☐ December

(c) Check how many days per week: 1. ☐ 1 2. ☐ 2-3 3. ☐ 4-5 4. ☒ 6-7

10. Types of waste water discharged to surface waters only (check as applicable)

Discharge per operating day	Flow, operating gallons per day					Volume treated before discharging (percent)				
	0.1-999 (1)	1000-4999 (2)	5000-9999 (3)	10,000-49,999 (4)	50,000-or more (5)	None (6)	0.1-29.9 (7)	30-64.9 (8)	65-94.9 (9)	95-100 (10)
A. Sanitary, daily average	NA									
B. Cooling water, etc. daily average	<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>				
C. Process water, daily average	NA									
D. Maximum per operating day for total discharge (all types)	<input checked="" type="checkbox"/>									

NA

11. If any of the three types of waste identified in item 9, either treated or untreated, are discharged to places other than surface waters, check below as applicable.

Waste water is discharged to:	Average flow, gallons per operating day				
	0.1-999 (1)	1000-4999 (2)	5000-9999 (3)	10,000-49,999 (4)	50,000 or more (5)
A. Municipal sewer system					
B. Underground well					
C. Septic tank					
D. Evaporation lagoon or pond					
E. Other, specify					

12. Number of separate discharge points: A. ☒ 1 B. ☐ 2-3 C. ☐ 4-5 D. ☐ 6 or more

13. Name of receiving water or waters Arthur Kill

14. Does your discharge contain or is it possible for your discharge to contain one or more of the following substances added as a result of your operations, activities, or processes: ammonia, cyanide, aluminum, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, zinc, phenols, oil and grease, and chlorine (residual). A. ☒ Yes B. ☐ No

I certify that I am familiar with the information contained in the application and that to the best of my knowledge and belief such information is true, complete, and accurate.

Peter R. Kuehne

Printed Name of Person Signing

9/26/74

Date Application Signed

President

Title

Peter R. Kuehne

Signature of Applicant

18 U.S.C. Section 1001 provides that:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations; or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both.

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NPDES PERMIT NO. NJ 0027707

P3
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4/7/80
AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

By authority of Charles Warren, Regional Administrator, Region II,
U. S. Environmental Protection Agency ("EPA"), and in compliance with
the provisions of the Clean Water Act, as amended, 33 U.S.C. §1251
et seq. (the "Act").

Kuehne Chemical Company, Inc.

hereinafter referred to as "the Permittee" is authorized to discharge
from a facility located at

Foot of Wood Avenue South
Union County, Linden, New Jersey 07036

to receiving waters named

Arthur Kill

in accordance with effluent limitations, monitoring requirements and
other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on August 31, 1980.

This permit and the authorization to discharge shall expire at
midnight, August 31, 1985.

Signed this 14 day of

July 1980

[Signature]
JULIO MORALES-SANCHEZ
DIRECTOR
ENFORCEMENT DIVISION

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning August 31, 1980 and lasting through August 31, 1985 the permittee is authorized to discharge from outfall(s) serial number(s) 001.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations				Monitoring Requirements	
	Gross	other units(specified)			Measurement Frequency	Sample Type
	kgs/day(lbs/day)	Avg.Monthly	Max.Daily	Avg.Monthly		
Flow-m ³ /Day (MGD)	N/A	N/A	N/A	N/A	Quarterly	Grab
Chemical Oxygen Demand*	N/A	N/A	N/A	50 mg/l	Quarterly	Grab
Petroleum Hydrocarbons	N/A	N/A	N/A	10 mg/l	Twice Yearly	Grab
Total Suspended Solids**	N/A	N/A	N/A	N/A	Quarterly	Grab
Temperature °C (°F)	N/A	N/A	N/A	30 (86)	Quarterly	Grab
Chromium ***	N/A	N/A	N/A	.5 mg/l	Quarterly	Grab
Zinc ***	N/A	N/A	N/A	1.0 mg/l	Quarterly	Grab
Copper***	N/A	N/A	N/A	1.0 mg/l	Quarterly	Grab

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored quarterly. The sample type for this parameter shall be grab.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the outfall(s) of discharge serial number(s) 001.

*Upon written request from the permittee this limit may be changed to 20 mg/l of Total Organic Carbon.

**Additional limitations may be imposed after receipt of monitoring data.

***Monitoring for this parameter is not required unless a corrosion inhibitor containing this metal is used for water treatment purposes.

B. MONITORING AND REPORTING REQUIREMENTS

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume of effluent flow and the quantity of pollutants discharged.

2. Reporting

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on September 28, 1981. Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator and the State at the following addresses:

Regional Administrator
Region II
U. S. Environmental Protection Agency
26 Federal Plaza
New York, New York 10007
ATTN: Permits Administration Branch

Assistant Director for Operations
and Enforcement
Division of Water Resources
New Jersey Department of Environmental Protection
P. O. Box CN-029
Trenton, New Jersey 08625

3. Definitions

- a. The "average monthly discharge" means the summation of all the sampled and/or measured daily discharges by mass, or in other units as specified herein, divided by the number of days during the calendar month when the measurements or samples were made.
- b. The "maximum daily discharge" means the total discharge by mass, or in other appropriate units as specified herein, of a pollutant discharged during any calendar day.
- c. "Daily" means each operating day.
- d. "Weekly" means every seventh day (the same day each week) and a normal operating day.

- e. "Monthly" means one day each month (the same day each month) and a normal operating day (e.g., the 2nd Tuesday of each month).
- f. "Net" means the amount of a pollutant contained in the discharge measured in appropriate units as specified herein, less the amount of a pollutant contained in the surface water body intake source, measured in the same units, over the same period of time.
 - 1. The intake water source must be drawn from the same body of water into which the discharge is made.
 - 2. In cases where the surface water body intake source is pretreated for the removal of pollutants, the intake level of a pollutant to be used in calculating the net, is that level contained after the pretreatment steps.
- g. "Composite" means a combination of individual (or continuously taken) samples obtained at regular intervals over the entire discharge day. The volume of each sample shall be proportional to the discharge flow rate. For a continuous discharge, a minimum of 24 individual grab samples (at hourly intervals) shall be collected and combined to constitute a 24-hour composite sample. For intermittent discharges of 4 - 8 hours duration, grab samples shall be taken at a minimum of 30 minute intervals. For intermittent discharges of less than 4 hours duration grab samples shall be taken at a minimum of 15 minute intervals.
- h. "Gross" means the weight or the concentration contained in the discharge. (Unless a limitation is specified as a net limitation, the limitation contained in this permit is a gross limitation.)
- i. "Grab" means an individual sample collected in less than 15 minutes.
- j. "Bypass" means the intentional diversion of wastes from any portion of a treatment facility.

PART I

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Permit No. NJ 0027707

k. "Severe property damage" means the substantial physical damage to the treatment facilities which would cause them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

l. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

m. "State" means the State water pollution control agency.

n. "EDP" means effective date of this permit.

4. Test Procedures

Test procedures identified in 40 CFR 136 and promulgated pursuant to Section 304(h) of the Act shall be utilized for the analyses of pollutants, unless a different test procedure is specified in this permit.

5. Quality Assurance Practices

The permittee is required to show the validity of all data by requiring its laboratory to adhere to the following minimum quality assurance practices:

a. Duplicate⁽¹⁾ and spiked⁽²⁾ samples must be run for each constituent analyzed for permit compliance on 5% of the samples, or at least on one sample per month, whichever is greater. If the analysis frequency is less than one sample per month, duplicate and spiked samples must be run for each analysis.

1) Duplicate samples are not required for the following parameters: Color, Temperature, Turbidity.

2) Spiked samples are not required for the following parameters listed in Table 1 of 40 CFR 136: Acidity, Alkalinity, Bacteriological, Benzidine, Chlorine, Color, Dissolved Oxygen, Hardness, pH, Oil & Grease, Radiological, Residues, Temperature, Turbidity. Procedures for spiking samples and spiked sample requirements for parameters not listed on the above referenced table are available through the Regional Quality Assurance Coordinator.

- b. For spiked samples, a known amount of each constituent is to be added to the discharge sample. The amount of constituent added should be approximately the same amount present in the unspiked sample, or must be approximately that stated as maximum or average in the discharge permit.
- c. The data obtained in a. shall be summarized in an annual report submitted at the end of the fourth quarter of reporting in terms of precision, percent recovery, and the number of duplicate and spiked samples run.
- d. Precision for each parameter shall be calculated by the formula, standard deviation $s = (\sum d^2/2k)^{1/2}$, where d is the difference between duplicate results, and k is the number of duplicate pairs used in the calculation.
- e. Percent recovery for each parameter shall be calculated by the formula $R = 100(F-I)/A$, where F is the analytical result of the spiked sample, I is the result before spiking of the sample, and A is the amount of constituent added to the sample.
- f. The percent recovery, R , for each parameter in e. above shall be summarized yearly in terms of mean percent recovery and standard deviation from the mean. The formula, $s = (\sum (x-\bar{x})^2/(n-1))^{1/2}$, where s is the standard deviation around the mean \bar{x} , x is an individual recovery value, and n is the number of data points, shall be applied.
- g. The permittee or his contract laboratory is required to annually analyze an external quality control reference sample for each pollutant. These are available through the Regional Quality Assurance Coordinator, Region II, U. S. Environmental Protection Agency, Edison Environmental Laboratory, Edison, New Jersey 08817.
- h. The permittee and/or his contract laboratory is required to maintain records of the specific analytical methods used, including options employed, if any, within a particular method, and of reagent standardization and equipment calibration operations.
- i. If a contract laboratory is utilized, the permittee shall report the name and address of the laboratory and the parameters analyzed together with the monitoring data required in Part I.B.2. In addition, the permittee shall notify the Regional Administrator in writing within 30 days of any change in the contract laboratory being utilized.

6. Recording of Monitoring Results

For each measurement of sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The date, exact place and time of sampling or measurements;
- b. The person(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The person(s) who performed the analyses;
- e. The analytical techniques or methods used;
- f. The quality assurance information as stated in 5. above; and
- g. The result of all such analyses.

7. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form (EPA No. 3320-1). Such increased frequency shall also be indicated.

Other monitoring data not specifically required by this permit (such as internal process or internal waste stream data) or data collected by third parties need not be submitted unless it indicates a violation, but it shall be identified and referenced as a supplement to the Discharge Monitoring Report.

8. Records Retention

All records and information resulting from the monitoring activities required by this permit (including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records) shall be retained by the permittee for a minimum of three (3) years. The three-year period shall be extended (a) as requested by the Regional Administrator or by the State Director, or (b) automatically during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or regarding EPA-promulgated effluent guidelines applicable to the permittee.

A. MANAGEMENT REQUIREMENTS

1. Signatories of reports

All reports or requests for information required by the permit issuing authority pursuant to the terms of this permit, including discharge monitoring reports and reports of noncompliance, shall be signed as follows:

- a. For a corporation, by a principal executive officer of at least the level of vice president;
- b. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
- c. For a municipality, State, Federal, or other public facility, by either a principal executive officer or ranking elected official; or
- d. By a duly authorized representative of a, b, or c above, if:
 1. The representative so authorized is responsible for the overall operation of the facility from which the discharge originates, e.g., a plant manager, superintendent or person of equivalent responsibility;
 2. The authorization is made in writing by the person designated under paragraph a, b, or c above; and
 3. The written authorization is submitted to the Regional Administrator, U.S. EPA, Region II, 26 Federal Plaza, New York, New York 10007, ATTN: Permits Administration Branch, and to the State Director.
- e. Any changes in the written authorization submitted to the permitting authority under subparagraph d. shall be reported to the U.S. EPA by submitting a copy of a new written authorization which meets the requirements of subparagraph d.
- f. Any person signing any document under paragraph a, b, c or d shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

2. Change in Discharge

- a. All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit.
- b. If the permittee knows or has reason to believe that any activity has occurred or will occur which would constitute cause for modification or revocation and reissuance of the permit under 40 CFR §122.31 (44 Federal Register 32912, June 7, 1979), the permittee shall report such information to the Regional Administrator and the Director of the State water pollution control agency. Material and substantial alterations or additions to the permittee's operation (e.g., production changes, relocation or combination of discharge points, changes in the nature or mix of products produced) are a cause for modification or revocation and reissuance provided the reconstruction activities are not so great as to require new source permit issuance procedures to apply.
- c. Submission of information under subparagraph b., including, if appropriate, a new permit application, does not relieve the permittee from the duty to comply with this permit until it is modified or reissued.

3. Noncompliance Notification

- a. If, for any reason, the permittee does not comply with or will be unable to comply with any maximum daily or average weekly discharge limitations or standards specified in this permit, the permittee shall provide the Regional Administrator and the State with the following information:
 1. A description of the discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and
 3. Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

- b. The noncompliance information required by subparagraph a. shall be provided within 24 hours from the time the permittee becomes aware of the circumstances and, if that information was provided orally, shall be followed by a written submission within 5 days of the time the permittee becomes aware of the circumstances in the case of any discharge subject to any applicable toxic pollutant effluent standard under §307(a) of the Act (see 40 CFR 401.15) or in the case of other discharges which could constitute a threat to human health, welfare, or the environment, including discharges containing pollutants promulgated under §311 of the Act (see 40 CFR 116) or discharges which could cause a threat to public drinking water supplies.
- c. The noncompliance information required by subparagraph a. shall be provided in writing and accompany the discharge monitoring report(s) (see Part I, B.2.) covering the period of noncompliance unless subparagraph b. is applicable.

4. Facilities Operation

The permittee shall at all times maintain in good working order and operate as efficiently as possible all facilities and systems (and related appurtenances) for collection and treatment which are installed or used by the permittee for water pollution control and abatement to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes but is not limited to effective performance based on designed facility removals, adequate funding, effective management, adequate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures.

5. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to waters of the United States resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

6. Bypassing

- a. Bypassing is prohibited unless (1) bypass is unavoidable to prevent loss of life, personal injury, or severe property damage; (2) there are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment down-time; (3) the notification requirements of subparagraph b. are followed; and (4) conditions determined to be necessary by the Regional Administrator to minimize adverse effects are complied with.
- b. Subject to c. below, the permittee shall submit notice of an unanticipated bypass to the Regional Administrator and State within 24 hours of becoming aware of the bypass (if this information is provided orally, a written submission must be provided within five days). Where the permittee knows or should have known in advance of the need for a bypass, this prior notification shall be submitted for approval to the Regional Administrator, if possible, at least 10 days before the date of the bypass.
- c. Where essential maintenance necessary to ensure efficient operation of treatment systems requires bypassing portion(s) of a system and such a bypass will not cause effluent limitations or standards contained in this permit to be exceeded, notification to the Regional Administrator and State is not required.

7. Upsets

An upset shall constitute an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations provided the permittee demonstrates through properly signed, contemporaneous operating logs, or other relevant evidence that:

- a. An upset occurred and the permittee can identify the specific causes(s) of the upset;

- b. The permitted facility was at the time being operated in a prudent manner and in compliance with proper operation and maintenance procedures;
- c. The permittee submitted information described in Part II, A.3.a. to the Regional Administrator and State within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within 5 days); and
- d. The permittee complied with any remedial measures required under Part II, A.5.

8. Removed Substances

Solids, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters and/or the treatment of intake waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters. The following data shall be reported together with the monitoring data required in Part I, B.2.: (a) The sources of the materials to be disposed of; (b) The approximate volumes and weights; (c) the method by which they were removed and transported; (d) their final disposal locations.

9. Reduction, Loss or Failure of the Treatment Facility

In order to maintain compliance with the effluent limitations and conditions of this permit, the permittee shall halt, reduce or otherwise control production and all discharges upon the reduction, loss or failure of the wastewater treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies to the situation where, among other things, the primary source of power of the treatment is reduced, lost or fails.

B. RESPONSIBILITIES**1. Right of Entry**

The permittee shall allow the head of the State water pollution control agency, the Regional Administrator, and/or their authorized representatives, upon the presentation of credentials and such other documents as may be required by law:

- a. To enter upon the permittee's premises where a point source is located or in which any records are required to be kept under the terms and conditions of this permit;
- b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit;
- c. At reasonable times to inspect any monitoring equipment or monitoring method required in this permit;
- d. At reasonable times to inspect any collection, treatment, pollution management, or discharge facilities required under this permit; and
- e. At reasonable times to sample any discharge of pollutants.

2. Transferability of Permit

A permit shall be transferred to another person by a permittee if:

- a. The permittee notified the Regional Administrator and State Director of the proposed transfer;
- b. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittee (including acknowledgement that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) is submitted to the Regional Administrator and State Director; and

- c. The Regional Administrator within 30 days does not notify the current permittee and the new permittee of his or her intent to modify, revoke and reissue, or terminate the permit and to require that a new application be filed rather than agreeing to the transfer of the permit.

3. Availability of Reports

Except for data determined to be confidential under Section 308 of the Act and regulations promulgated at 40 CFR 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement, representation or certification on a report required by this permit, including but not limited to any discharge monitoring report, notice of compliance report, or any record or other document required to be maintained by the permittee under this permit, may result, upon conviction, in imprisonment or the imposition of criminal penalties as provided for in Section 309 of the Act.

4. Permit Modification

After notice and opportunity for a hearing as required by 40 CFR Part 124, this permit may be modified in whole or in part, revoked and reissued, or terminated during its term for cause as specified in 40 CFR 122.31 (44 Federal Register 32912, June 7, 1979). Among the causes specified in that regulation are:

- a. Violation of any term or condition of this permit;
- b. Failure of the permittee to disclose fully all relevant facts or misrepresentation of any relevant facts by the permittee in the application or during the permit issuance process;
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of any authorized discharge; and
- d. Information indicating that the permitted discharge poses a threat to human health or welfare.

5. Toxic Pollutants

Notwithstanding Part II, B.4. above, this permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b)(2)(C), and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

- a. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
- b. Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

6. Civil and Criminal Liability

Except as provided in permit conditions on "Bypassing" (Part II, A.6.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability

The imposition of responsibilities upon, or the institution of any legal action against the permittee under Section 311 of the Act shall be in conformance with regulations promulgated pursuant to Section 311 of the Act governing the applicability of Section 311 to discharges from facilities with NPDES permits.

8. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act. The issuance of this permit does not preempt any duty to obtain State or local assent required by law for the discharge.

9. Property Rights

The issuance of this permit does not convey any property rights of any sort in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

10. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

A. EFFECTIVENESS OF PERMIT

1. This permit shall become effective in its entirety on the date indicated on the first page of this permit unless a request for an evidentiary hearing or a panel hearing is granted pursuant to the provisions of 40 CFR Part 124, Subpart H or I, 44 Federal Register 111, pp. 32938-32947 (June 7, 1979).
2. This permit and the authorization to discharge shall terminate on the expiration date indicated on the first page. In order to receive authorization to discharge beyond the date of expiration, the permittee shall submit such information, forms and fees as are required by the agency responsible for the issuance of NPDES permits no later than 180 days prior to the expiration date.

B. OTHER REQUIREMENTS

- I. Under authority granted to the Department by N.J.S.A., 58:10A-1 et seq., outfall 001 shall be limited and monitored as follows:

- A. Chlorine Residual (Total)*

1. Discharge Limitation: .002 mg/l on a 30 day average
 2. Monitoring Requirements: A grab sample done quarterly.

*Monitoring program for Chlorine Residual (Total) to terminate after one year if undetected.

- II. The permittee shall discharge so as not to violate the Surface Water Quality Standards for the Arthur Kill, classified as TW-3 waters, set forth in N.J.A.C. 7:9-4 et seq.

The I.S.C. Water Quality Regulations include, but are not limited to, the following provisions:

- A. Total Suspended Solids content shall not exceed:

1. 30 mg/l on a 30 consecutive day average.
 2. 45 mg/l on a 7 consecutive day average.
 3. 50 mg/l on a 6 consecutive hour average.

OTHER REQUIREMENTS (con't)

- IV. The draft permit forwarded to this Department on March 17, 1980, with the provisions in this certification to be included in the final permit, is not in conflict with the applicable approved portions of the Northeast Water Quality Management Plan, developed in accordance with Section 208 of the Act. The NPDES permit will be reviewed at such time as the Northeast Water Quality Management Plan, or applicable portion(s) thereof, are revised and the appropriate modifications to the permit be made at that time.
- V. The permittee shall comply with the Facilities Plan developed for the Linden-Roselle S.A. in accordance with Section 201 of the Act.
- VI. The permittee shall comply with the Sludge Quality Assurance Regulations (N.J.A.C. 7:14-4.1 et seq.).

NAME KUEHNE CHEMICAL COMPANY, INC.
ADDRESS P.O. BOX 534
Linden, NJ 07036

NPDES (2-16)
NJ-0027707
PERMIT NUMBER

(17-19)
DISCHARGE NUMBER

FEB 18 1981

file 7
P-4
edit 4/7/81

FACILITY Sodium Hypochlorite Plant
LOCATION Foot of South Wood Ave, Linden, NJ

MONITORING PERIOD
FROM 1980 Aug 31 TO 1980 Dec 1
(20-21) (22-23) (24-25) (26-27) (28-29) (30-31)
YEAR MO DAY YEAR MO DAY

NOTE: Read instructions before completing this form.

PARAMETER (32-37)	X	(3 Card Only) (46-53) QUANTITY OR LOADING (54-61)			(4 Card Only) (38-45) QUALITY OR CONCENTRATION (46-53)				NO. EX (62-63)	FREQUENCY OF ANALYSIS (64-68)	SAMPLE TYPE (69-70)
		AVERAGE	MAXIMUM	UNITS	MINIMUM	AVERAGE	MAXIMUM	UNITS			
Flow	SAMPLE MEASUREMENT	15.7		MGD					0		
	PERMIT REQUIREMENT	N/A								1/90	Grab
Chemical Oxygen Demand	SAMPLE MEASUREMENT						32		0		
	PERMIT REQUIREMENT						39				
Petroleum Hydrocarbons	SAMPLE MEASUREMENT						<1.0		0		
	PERMIT REQUIREMENT						<1.0				
Total Suspended Solids	SAMPLE MEASUREMENT		3.0				10		0	1/180	Grab
	PERMIT REQUIREMENT		50	mg/l						1/90	Grab
Temperature	SAMPLE MEASUREMENT						15		0		
	PERMIT REQUIREMENT						30	°C		1/90	Grab
Chlorine Residual (Total)	SAMPLE MEASUREMENT	6.5							0		
	PERMIT REQUIREMENT	.002		mg/l						1/90	Grab
PH	SAMPLE MEASUREMENT					8.1			0		
	PERMIT REQUIREMENT				6.0		9.0	PH		1/90	Grab
NAME/TITLE PRINCIPAL EXECUTIVE OFFICER		THIS DOCUMENT IS SIGNED WITH RECOGNITION THAT KNOWINGLY MAKING A FALSE CERTIFICATION ON THIS REPORT OR SUPPORTING DOCUMENTS OR INTENTIONALLY TAMPERING WITH ANY MONITORING DEVICE OR METHOD ARE CRIMINAL OFFENSES, SEE 18 U.S.C. § 1001 AND 33 U.S.C. § 1319. (Penalties under these statutes may be fines up to \$10,000 and/or maximum imprisonment of between 6 months and 5 years.)				SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT		TELEPHONE		DATE	
C. R. Jacobs Executive Vice President						Clifford R. Jacobs		201 862-1212		81 02 10	
TYPED OR PRINTED								AREA CODE NUMBER		YEAR MO DAY	

COMMENT AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here)

Cannot account for Chlorine residual but will investigate cause. No upset. Sample submitted for analysis 12-17-80 received 1-14-81. Production at this location as of 1-26-81 is by Linden Chemicals and Plastics. Attached is a copy of analytical data.

GENERAL INSTRUCTIONS

1. If form has been partially completed by preprinting, disregard instructions directed at entry of that information already preprinted.
2. Enter "PERMITTEE NAME/MAILING ADDRESS (and facility name/location, if different)," "PERMIT NUMBER," and "DISCHARGE NUMBER" where indicated. (A separate form is required for each discharge.)
3. Enter dates beginning and ending "MONITORING PERIOD" covered by form where indicated.
4. Enter each "PARAMETER" as specified in monitoring requirements of permit.
5. Enter "SAMPLE MEASUREMENT" data for each parameter under "QUANTITY" and "QUALITY" in units specified in permit. "AVERAGE" is normally arithmetic average (geometric average for bacterial parameters) of all sample measurements for each parameter obtained during "MONITORING PERIOD." "MAXIMUM" and "MINIMUM" are normally extreme high and low measurements obtained during "MONITORING PERIOD." (NOTE to municipalities with secondary treatment requirement, enter 30-day average of sample measurements under "AVERAGE" and enter maximum 7-day average of sample measurements obtained during monitoring period under "MAXIMUM".)
6. Enter "PERMIT REQUIREMENT" for each parameter under "QUANTITY" and "QUALITY" as specified in permit.
7. Under "NO. EX" enter number of sample measurements during monitoring period that exceed maximum (and/or minimum or 7-day average as appropriate) permit requirement for each parameter. If none, enter "0".
8. Enter "FREQUENCY OF ANALYSIS" both as "SAMPLE MEASUREMENT" (actual frequency of sampling and analysis used during monitoring period) and as "PERMIT REQUIREMENT" specified in permit. (e.g., Enter "CONT." for continuous monitoring, "1/7" for one day per week, "1/30" for one day per month, "1/90" for one day per quarter, etc.)
9. Enter "SAMPLE TYPE" both as "SAMPLE MEASUREMENT" (actual sample type used during monitoring period) and as "PERMIT REQUIREMENT." (e.g., Enter "GRAB" for individual sample, "24HC" for 24-hour composite, "N/A" for continuous monitoring, etc.)

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10. WHERE VIOLATIONS OF PERMIT REQUIREMENTS ARE REPORTED, ATTACH A BRIEF EXPLANATION TO DESCRIBE CAUSE AND CORRECTIVE ACTIONS TAKEN. REFERENCE EACH VIOLATION BY DATE.
11. If "no discharge" occurs during monitoring period, enter "NO DISCHARGE" across form in place of data entry.
12. Enter "NAME/TITLE OF PRINCIPAL EXECUTIVE OFFICER" with "SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT," "TELEPHONE NUMBER" and "DATE" at bottom of form.
13. Mail signed Report to Office(s) by date(s) specified in permit. Retain copy for your records.
14. More detailed instructions for use of this DISCHARGE MONITORING REPORT (DMR) form may be obtained from Office(s) specified in permit.

LEGAL NOTICE

This report is required by law (33 U.S.C. 1318; 40 C.F.R. 125.27). Failure to report or failure to report truthfully can result in civil penalties not to exceed \$10,000 per day of violation; or in criminal penalties not to exceed \$25,000 per day of violation, or by imprisonment for not more than one year, or by both.

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New York, NY 10278

26 Federal Plaza

F.P.A. Region II, Room 432

Chief Permits Administration Branch

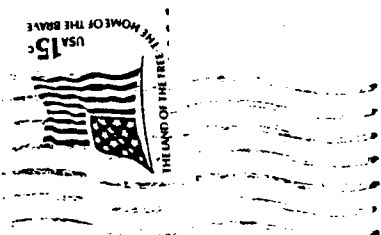
Richard A. Baker



Clifford R. Jacobs
P.O. Box 534
Linden, NJ 07036

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STAPLE HERE



NAME KUEHNE CHEMICAL COMPANY, INC.
ADDRESS P.O. BOX 534
Linden, NJ 07036

FACILITY Sodium Hypochlorite Plant
LOCATION Foot of South Wood Ave., Linden, NJ

NPDES (2-16)
NJ-0027707
PERMIT NUMBER

(17-19)
DISCHARGE NUMBER

2-4 FEB 18 1981

VOID NO. 155 - K06
file?

MONITORING PERIOD							
FROM	1980	Aug	31	TO	1980	Dec	1
	YEAR	MO	DAY		YEAR	MO	DAY
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	PERMIT REQUIREMENT						50	mg/l		1/90	Grow
Petroleum Hydrocarbons	SAMPLE MEASUREMENT						<1.0 <1.0		0		
	PERMIT REQUIREMENT						10	mg/l		1/90	Grab
Total Suspended Solids	SAMPLE MEASUREMENT		3.0						0		
	PERMIT REQUIREMENT		50	mg/l						1/90	Grab
Temperature	SAMPLE MEASUREMENT						15 30	°C	0		
	PERMIT REQUIREMENT									1/90	Grab
Chlorine Residual (Total)	SAMPLE MEASUREMENT	6.5							0		
	PERMIT REQUIREMENT	.002		mg/l						1/90	Grab
PH	SAMPLE MEASUREMENT					8.1			0		
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C. R. Jacobs			Clifford R. Jacobs		201 862-1212		81	02	10	
Executive Vice President					AREA CODE NUMBER		YEAR	MO	DAY	

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(FOLD HERE SECOND)

New York, NY 10278

26 Federal Plaza

F.P.A. Region II, Room 432

Chief Permits Administration Branch

Richard A. Baker



Linden, NJ 07036

P.O. Box 534

Clifford R. Jacobs

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STAPLE HERE

MEMO

NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION

TO ^{CLM} Charles L. Maack, Principal Environmental Engineer, Region II

FROM ^{CLJ} Charles L. Johnson, Senior Environmental Engineer, Region II DATE February 24, 1981

SUBJECT Inspection of Kuehne Chemical Company, Inc., Linden

On January 26, 1981, the writer, accompanied by Mr. John Tomasiello visited Linden Chlorine Products (LCP) in order to observe the excavation of Kuehne Chemical's concealed discharge pipe.

At 2:00 p.m., the inspectors sampled the permitted Kuehne discharge (#2437) and in the flume upstream of said discharge (#12438).

Personnel from LCP then proceeded to excavate the discharge line from Kuehne Chemical to the outfall in the flume by digging with a backhoe adjacent to the flume. No second pipe was found. While digging, ground water was encountered and sampled by LCP. ~~The pH of said water was 11.4.~~ ^{DR.} The digging continued and approximately 12 feet from the pipe outfall a large break on the underside of the pipe was uncovered. A large flow of discharge water flowed from this break suggesting that it may be the source of wastewater leaking through the flume walls.

An inspection of Kuehne was made after observing a valve connecting Kuehne's filtering process lines to their discharge line. Mr. Scott L. Charlop, Manufacturing Manager of Kuehne was questioned about the valve and responded by stating that this valve was opened only during the backwash of Kuehne's filtering system. The writer stated that this valve was unexceptable and must be removed.

On January 27, 1981, the writer returned to LCP and Kuehne Chemical to observe further digging of Kuehne's discharge line. The contractor hit a concrete encasement which ran the entire length of the pipe after commencing to dig and therefore halted any further digging. It was then observed by the writer that Kuehne had disconnected the valve in question.

Conclusions and Recommendations:

The writer feels that Kuehne Chemical Company dumped caustic material with the use of the valve in the process valve and acid by pouring hydrochloric acid into their discharge line. This mixing may be the cause of a very strong smell of chlorine gas at Kuehne's discharge on January 8, 1981. The leakage from the walls of the flume was probably caused by the break in the discharge line. Because of the different flow rates involved in the pipe and through the 12 feet of soil, a lag time was shown in the flow of materials (and pH) in the leakage suggesting a possible second pipe. The sampling data obtained by LCP should be expediently coordinated with Division data for use in enforcement action.

E54:G9

cc: James Mumman
Keith Onsdorff

P-5
End DR
4/8/81

Charles L. Maack, Principal Environmental Engineer, Region II

Charles L. Johnson, Senior Environmental Engineer, Region II

Inspection of Kuehne Chemical Company, Inc., Linden

FEB 24 1981

On January 8, 1981, the writer visited the Linden Chlorine Products (LCP) plant in Linden as part of the ongoing investigation of the neighboring Kuehne Chemical Company.

The writer met with Mr. Bill Fledderman, Plant Manager, upon arriving at LCP, and was informed by him that Kuehne Chemical had continued the dumping of caustic material from what Mr. Fledderman thought was a concealed pipe. The writer stated that samples would be taken at several intervals during the day from the flume into which Kuehne supposedly dumps.

Samples were taken at hour intervals from the water in the flume approximately 50 feet from Kuehne's discharge. Split samples were taken by LCP and were tested for a pH, free chlorine and per cent bleach. Listed below is the sample No., time the sample was taken, and the pH of the split sample taken by LCP:

<u>Sample</u>	<u>Time</u>	<u>pH</u>
C12838	1:00 p.m.	10.06
C12839	2:00 p.m.	10.52
C12840	3:10 p.m.	9.19
C12842	4:15 p.m.	4.70
C12844	5:15 p.m.	9.93

At 6:00 p.m., the writer and an LCP representative walked to the Kuehne Chemical discharge point where a strong odor of chlorine was smelled. Sample (C12846) was taken from the flume approximately 3 feet upstream of Kuehne's discharge point. A split sample taken to LCP's lab revealed a pH of 10.40. A sample was then taken from Kuehne's permitted discharge. The discharge was clear and a split sample taken to the LCP lab revealed a pH of 2.62.

Conclusions and Recommendations

Kuehne Chemical Company is dumping acid and caustic material. Enforcement action should be taken immediately.

254:69

cc: James Musman
Keith Onsdorff

Exhibit D

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION II
26 Federal Plaza
New York, New York 10007
212-264-9881
Room 432

PUBLIC NOTICE

No. NPDES 80-23

Application No. NJ 0027707

Date: MARCH 21, 1980

NOTICE: FORMULATION OF DRAFT NPDES PERMIT

Notice is hereby given that Kuehne Chemical Co., Inc.

has applied to the United States Environmental Protection Agency (EPA) under the provisions of the Clean Water Act, 33 U.S.C. §1251 et seq. (the Act), for a National Pollutant Discharge Elimination System (NPDES) permit to discharge pollutants from a facility located at Foot of Wood Avenue South, Linden, New Jersey into navigable waters of the United States.

The applicant's principal process is the production of Sodium Hypochlorite via absorption of chlorine gas into a Sodium Hydroxide solution. The facility, located in Linden, New Jersey, presently reports one (1) discharge of cooling water from a cooling tower purge.

The outfall discharges into the Arthur Kill with no prior abatement.

NR P76

P-76

Encl SR
4/7/80

The Enforcement Division Director of Region II has tentatively decided to issue a permit to the applicant, subject to certain effluent limitations, standards, prohibitions and other conditions necessary to carry out the provisions of the Act. The draft permit formulated by EPA is based on the administrative record. Among other documents, the administrative record required by §124.35 of Title 40 of the Code of Federal Regulations, 40 CFR 124.35, 44 Federal Register 32931 (June 7, 1979), consists of the application, draft permit, and statement of basis or fact sheet describing the reasons for the terms and conditions of the draft permit.

The administrative record (with the exception of material readily available at EPA, Region II, or published material which is generally available) is on file in Room 432 of the Permits Administration Branch, EPA, Region II at the above address and may be inspected and copied at a charge of \$.20 per copy sheet at any time between 8:30 A.M. and 4:00 P.M., Monday through Friday. A copy of the draft permit and other available information may be obtained by writing to the above address.

Interested persons may submit written comments on the draft permit and administrative record to the Chief, Permits Administration Branch at the above address no later than 21 APR 1980. All persons, including applicants, who believe that any of the terms of the draft permit are not appropriate either because one of the variances or modifications listed in Subpart F of 40 CFR 124 should be granted or for some other reason, have an obligation to raise all reasonably ascertainable issues and submit all arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period. If the Enforcement Division Director finds that the draft permit is the subject of widespread public interest or that comments timely submitted appear to raise substantial new questions, he may reopen the public comment period.

In lieu of, or in addition to, the submission of comments as above provided, any interested person may request a public hearing. Any request for an informal public hearing under 40 CFR 124.42 must be in writing, state the issues to be raised, and be submitted to the Chief, Permits Administration Branch, EPA, Region II, at the above address no later than 21 APR 1980. EPA's

AGENDA

INFORMATION SERVICE CENTER MEETING Page 3 of 3 pages

March 18, 1980

PLACED decision on the question of whether to hold a public hearing on the draft NPDES permit, the administration of any hearing and the rights and obligations of participants are governed by NPDES regulations (40 CFR 124.42).

If no informal public hearing is held or if the comment period is not reopened, EPA will consider the issuance of a final permit to the applicant as soon as possible after the date indicated above for the submission of comments. All comments timely submitted by interested persons in response to this notice, and statements and other evidence properly submitted at any public hearing held will be considered by the Enforcement Division Director in the formulation of his final decision with respect to this application for a permit.

The Applicant and any other person who submits timely written comments will receive notice of the Enforcement Division Director's final decision. Within 30 days of service of such notice regarding the issuance of a final permit, any interested party may request a formal evidentiary hearing to reconsider or contest the terms of that permit. Any such request must meet the requirements of 40 CFR 124.74 (44 Federal Register 32939, June 7, 1979). That request may include a request that the non-adversary procedures of Subpart I of 40 CFR 124 be utilized.

Richard A. Baker
Chief
Permits Administration Branch
Planning & Management Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
26 Federal Plaza
New York, New York 10007

STATEMENT OF BASIS
DRAFT NPDES PERMIT TO
DISCHARGE INTO THE WATERS OF
THE UNITED STATES

NPDES Application No. NJ 0027707

Name and Address of Applicant Kuehne Chemical Company, Inc.
P.O. Box 634, Foot of Wood Avenue South
Linden, New Jersey 07036

Name and Address of Facility Kuehne Chemical Company, Inc.
where Discharge Occurs Foot of Wood Avenue South
Linden, New Jersey 07036

Receiving Water: Arthur Kill

DESCRIPTION OF LIMITATIONS AND CONDITIONS

Limitations and conditions are based upon regional guidance for cooling and stormwater dischargers consistent with 402 Determination. The regional guidance is based on the Chief of the Toxic and Inorganic Waste Section's memo dated December 8, 1978, and the organic limits in the permit can be achieved by proper housekeeping methods. If the non-contact cooling water and storm runoff is not contaminated by process waste or oil, the permittee will be in compliance with the organic parameters. In addition, if the permittee uses heavy metal corrosion inhibitors, the metal limits may be achieved by chemical precipitation.

pg 2

pg 1

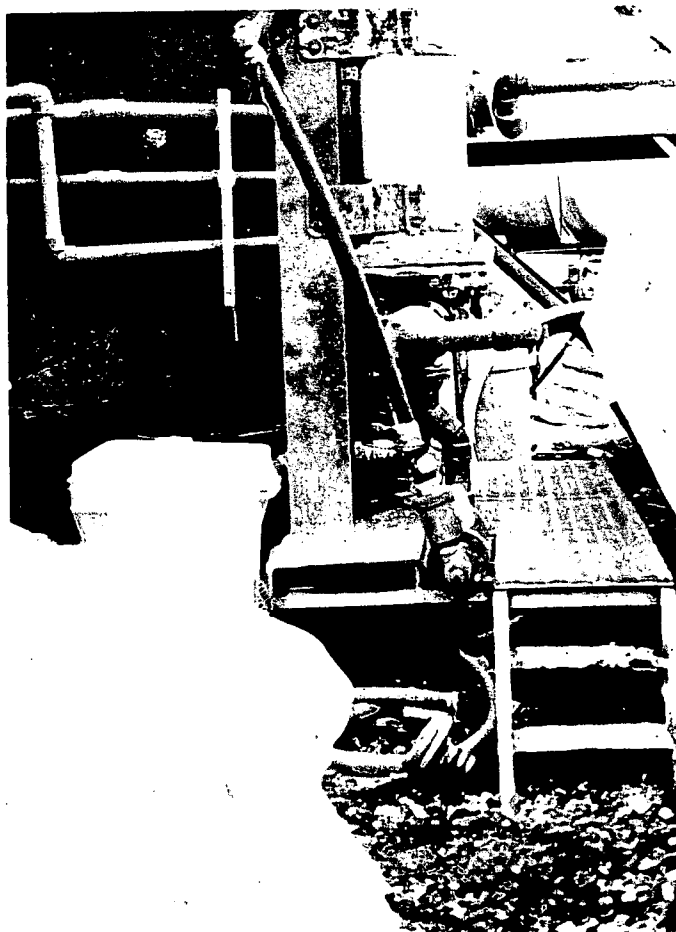
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AK

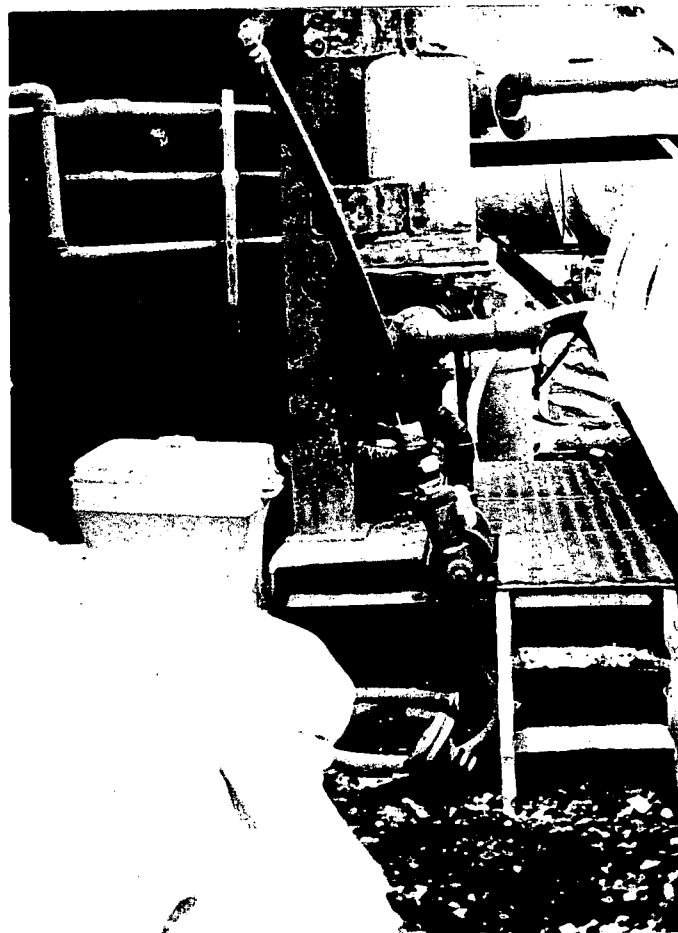
4/8/88



P9 J
P-9 J
End
A. R.
4/8/86



P9J
P-9J
End
A. R.
4/8/86



P9J
P-9J
End
A.R.
4/8/86



GARDEN STATE LABORATORIES, INC.

Bacteriological and Chemical Testing

399 Stuyvesant Avenue

Irvington, N.J. 07111



MATHEW KLEIN, M.S., Director
LCP Chemical Company
P.O. Box 484
Linden, NJ 07036

January 26, 1981.

Telephone
201-373-8007

P10
AR 4/9/81
End

FLUME 2

Available

Chlorine g/l

Date	Time	Temperature °C	pH	Available Chlorine g/l	Caustic g/l
1/14/81.	9:43am	13°C	9.91	0.89	0.14
	10:27am	13°C	10.33	0.79	0.16
	11:08am	12°C	10.16	0.70	0.15
	11:47am	12°C	10.08	0.60	0.15
	12:35pm	16°C	9.46	1.60	0.02
	1:12pm	14°C	10.03	0.91	0.15
	1:50pm	13°C	10.26	0.70	0.20
	2:20pm	12°C	10.03	0.39	0.16
	2:55pm	12°C	10.00	0.38	0.12
	3:36pm	13°C	9.20	0.33	0.15
	4:04pm	13°C	9.90	0.52	0.17
	5:15pm	12°C	10.08	0.48	0.20
Water at low level	5:50pm	14°C	10.25	3.83	0.25
	6:25pm	12°C	10.24	2.21	0.24
	7:05pm	13°C	10.23	1.40	0.22
	7:35pm	12°C	10.20	1.02	0.21
1/15/81.	9:05pm	11°C	9.90	0.41	0.11
	10:05pm	11°C	10.02	1.50	0.17
	11:05pm	11°C	9.97	0.97	0.14

GARDEN STATE LABORATORIES, INC.

Bacteriological and Chemical Testing

399 Stuyvesant Avenue

Irvington, N.J. 07111



MATHEW KLEIN, M.S., Director
LCP Chemical Company
P.O. Box 484
Linden, NJ 07036

January 26, 1981.

Telephone —
201-373-8007

Date	Time	Temperature °C	pH	FLUME 3	Water In Pit
				Available Chlorine g/l	Caustic g/l
1/15/81.	9:05pm	11°C	10.13	0.67	0.27
	10:05pm	11°C	10.10	4.07	0.34
	11:05pm	11°C	10.03	0.52	0.26
1/16/81.	12:05am	11°C	10.10	2.54	0.28
	1:05am	11°C	10.16	0.09	0.31
	2:10am	11°C	9.97	0.18	0.16
	3:10am	10°C	9.01	0.23	0.03
Hide Tide	4:05am	9°C	8:35	0.02	0.00

				FLUME 5	Water flowing out of pipe
1/15/81.	9:05pm	17°C	8.83	0.47	0.00
	10:05pm	17°C	8.89	0.57	0.00
	11:05pm	17°C	9.18	0.68	0.00
	12:05pm	17°C	9.42	0.95	0.02
	1:05pm	17°C	8.69	0.34	0.00
	2:10pm	16°C	8.89	0.18	0.02
	3:10pm	14°C	9.36	0.30	0.04
High Tide	4:05pm	9°C	8.12	0.01	0.00

P/11

GARDEN STATE LABORATORIES, INC.

Bacteriological and Chemical Testing

399 Stuyvesant Avenue

Irvington, N.J. 07111



MATHEW KLEIN, M.S., Director

Jan 28, 1981

Telephone
201-373-8007

LCP
Wood Ave.
Linden, NJ 07036

samples analyzed 1/26/81

FLUME 3

<u>TIME</u>	<u>pH</u>	<u>AVAILABLE CHLORINE g/l</u>	<u>CAUSTIC g/l</u>
1/25/81 7:05 pm	9.51	0.38	0.03
8:05 pm	9.17	0.04	0.02
9:05 pm	9.03	0.13	0.02
10:05 pm	8.84	0.03	0.02
11:10 pm	8.73	0.05	0.02
1/26/81 12:00 MID	11.28	68.77	1.74
1:00 am	11.27	120.88	2.14
2:05 am	11.29	124.43	2.15
3:05 am	8.93	0.23	0.01
4:05 am	8.31	0.07	0.00

GARDEN STATE LABORATORIES, INC.

Bacteriological and Chemical Testing

399 Stuyvesant Avenue

Irvington, N.J. 07111



MATHEW KLEIN, M.S., Director

Telephone
201-373-8007

Jan, 28, 1981

LCP
Wood Ave.
Linden, NJ 07036

samples analyzed 1/26/81

FLUME 5

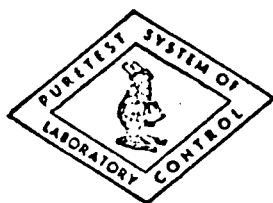
	<u>TIME</u>	<u>pH</u>	<u>AVAILABLE CHLORINE g/l</u>	<u>CAUSTIC g/l</u>
1/25/81	7:05 pm	10.61	4.54	0.32
	8:05 pm	10.42	0.53	0.20
	9:05 pm	10.84	28.36	1.20
	10:05 pm	10.35	0.99	0.33
	11:10 pm	10.44	1.02	0.34
1/26/81	12:00 MID	10.39	0.70	0.25
	1:00 am	10.48	3.35	0.40
	2:05 am	11.44	62.39	1.08
	3:05 am	10.44	31.96	0.40
	4:05 am	11.06	65.58	0.46

GARDEN STATE LABORATORIES, INC.

Bacteriological and Chemical Testing

399 Stuyvesant Avenue

Irvington, N.J. 07111



MATHEW KLEIN, M.S., Director

Telephone
201-373-8007

Jan 28, 1981

LCP
Wood Ave.
Linden, NJ 07036

samples analysed 1/26/81

<u>FLUME 2</u>			
<u>TIME</u>	<u>pH</u>	<u>AVAILABLE CHLORINE g/l</u>	<u>CAUSTIC g/l</u>
1/25/81 12:20 pm	9.42	0.03	0.10
1:00 pm	9.84	0.11	0.15
2:00 pm	10.50	0.08	0.21
3:10 pm	10.39	0.10	0.18
4:05 pm	10.41	0.11	0.23
5:05 pm	10.47	0.09	0.19
6:00 pm	10.45	0.11	0.19
7:05 pm	10.44	1.49	0.18
8:05 pm	10.33	0.31	0.18
9:05 pm	10.36	0.24	0.18
10:05 pm	10.32	0.27	0.19
11:10 pm	10.30	0.18	0.18
1/26/81 12:00 MID	8.92	0.01	0.05
1:00 am	9.06	0.01	0.07
2:05 am	11.31	48.92	0.95
3:05 am	11.01	23.40	0.60
4:05 am	9.98	7.80	0.03
5:00 am	10.19	3.40	0.11

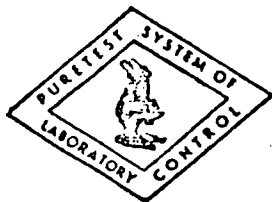
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GARDEN STATE LABORATORIES, INC.

Bacteriological and Chemical Testing

399 Stuyvesant Avenue

Irvington, N.J. 07111

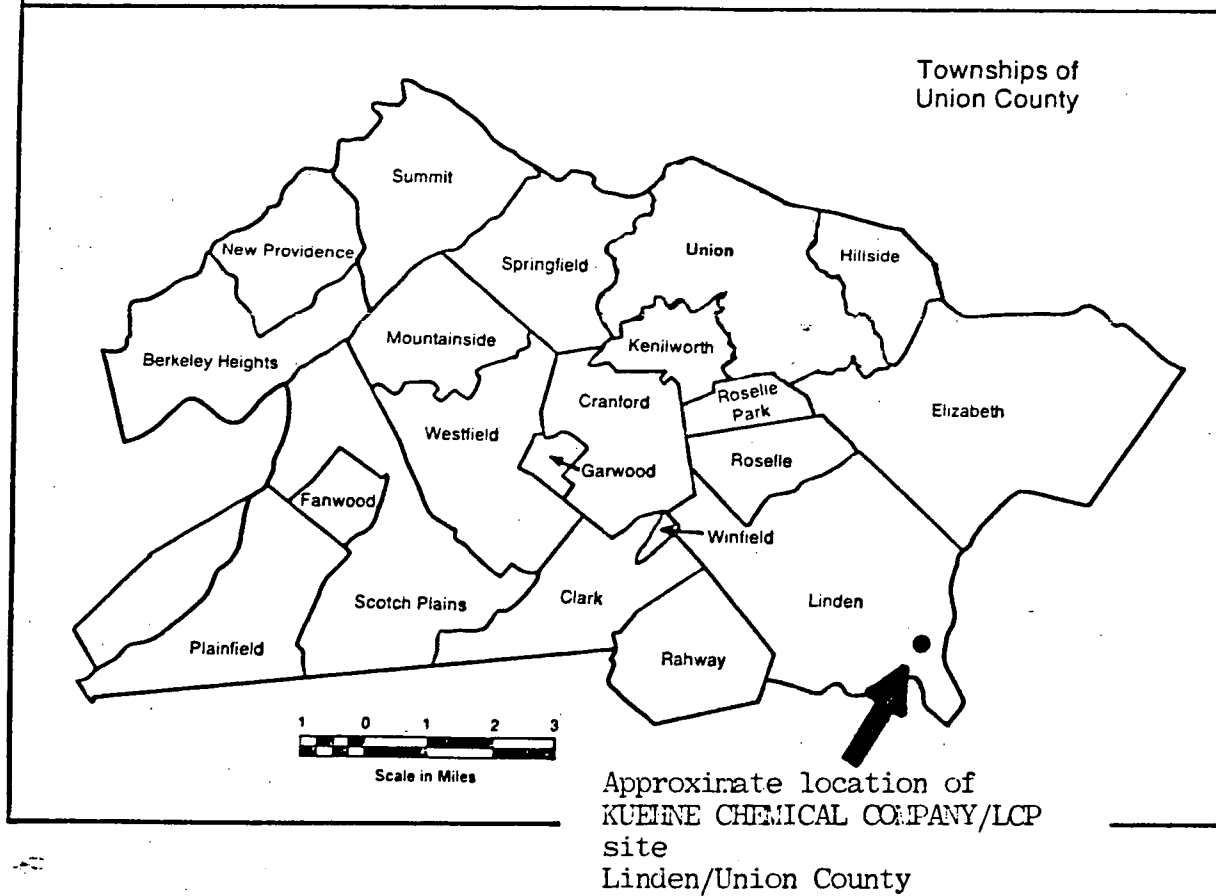
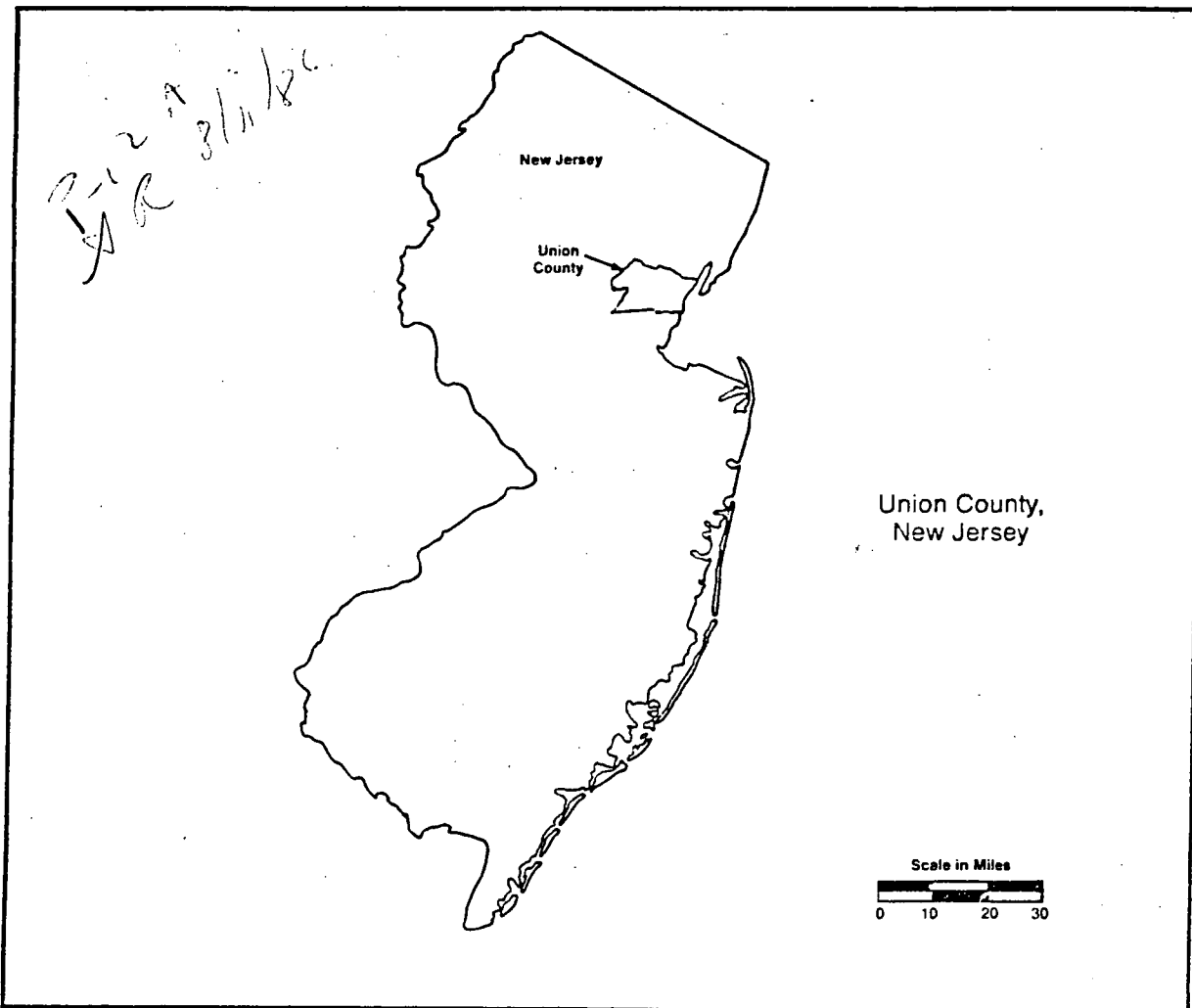


MATHEW KLEIN, M.S., Director

Telephone
201-373-8007

FLUME '2 cont.

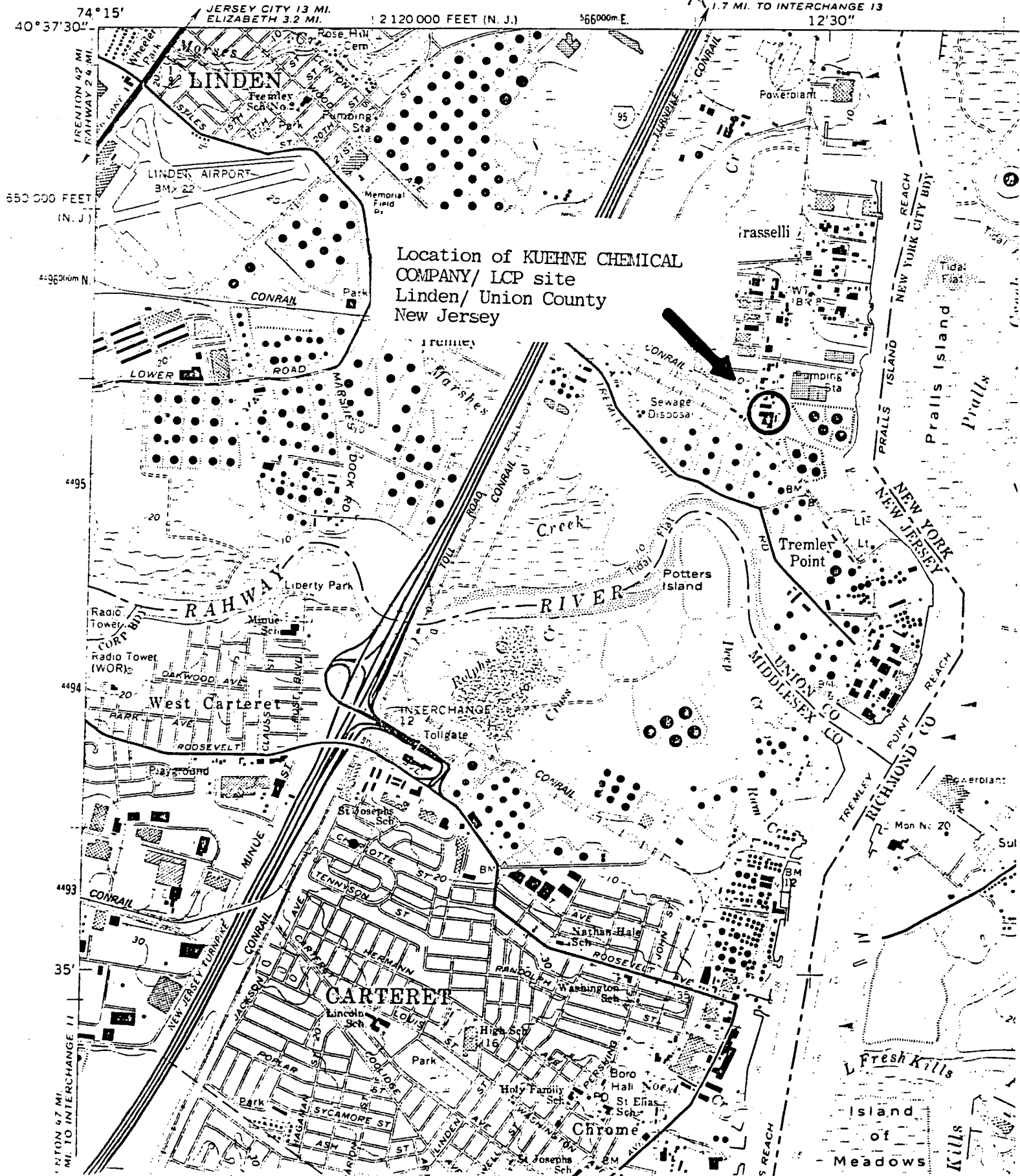
<u>TIME</u>	<u>pH</u>	<u>AVAILABLE CHLORINE g/l</u>	<u>CAUSTIC g/l</u>
6:00 am	10.27	1.99	0.35
7:00 am	10.31	1.23	0.56
8:00 am	10.56	5.84	0.54
9:05 am	10.42	2.84	0.58
10:00 am	9.56	13.68	0.35
11:00	9.61	9.36	0.35

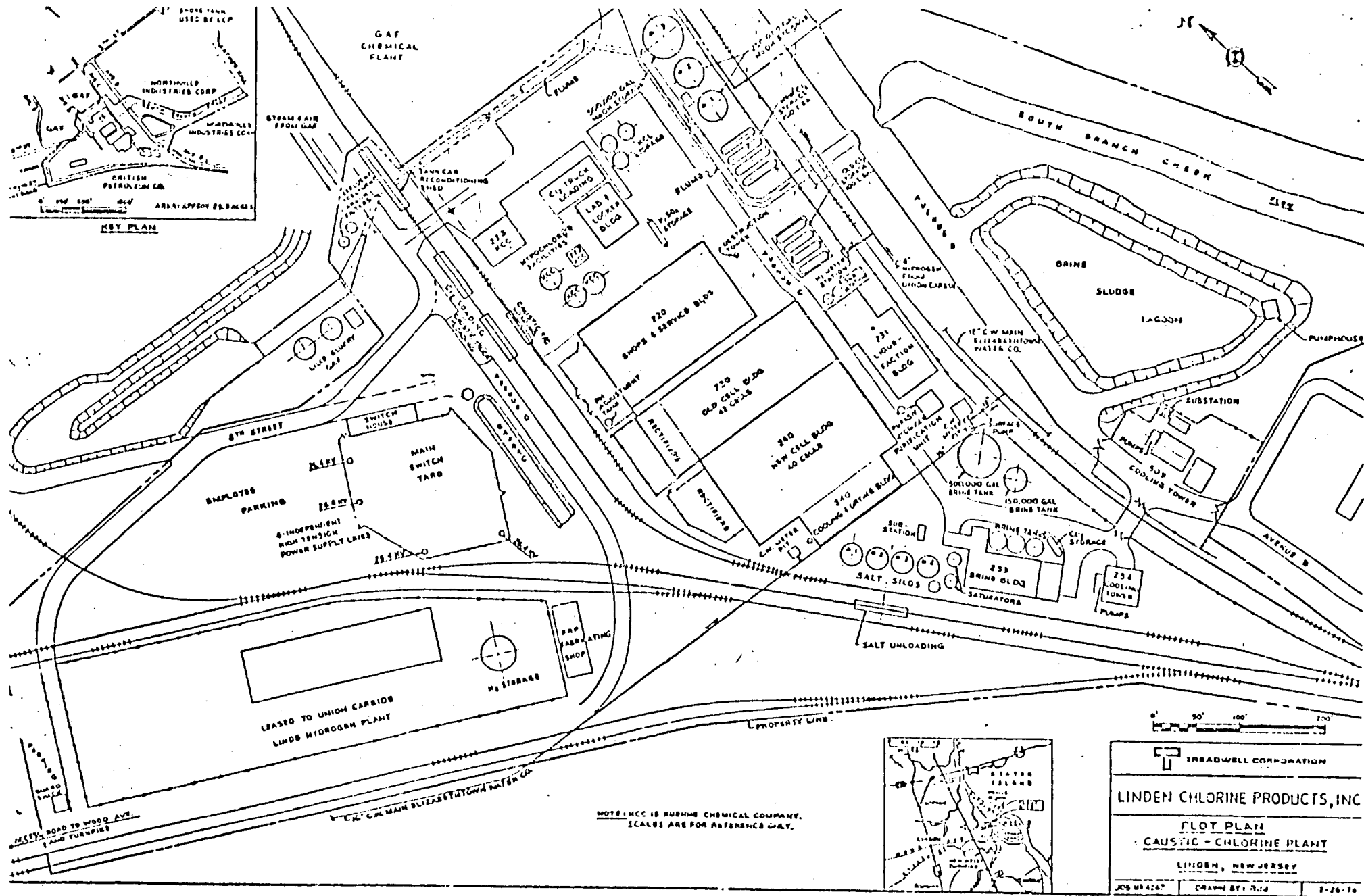


6185 LINE
(ROSELLE)

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

8-12B
8/11/86
AK



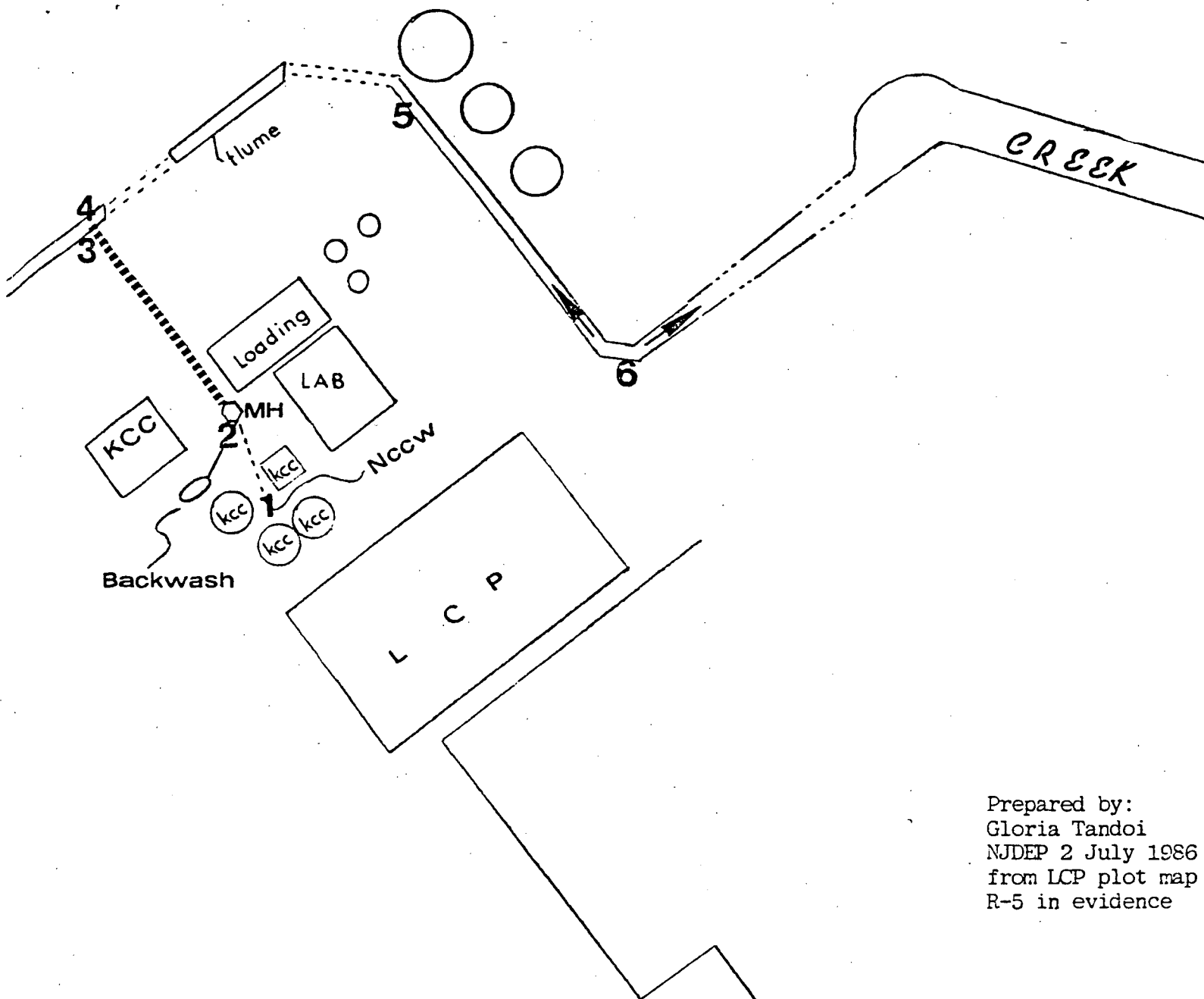


R-5 in evidence

28/1/8 J. A.
21-2



NOTE: HCC IS KUBINE CHEMICAL COMPANY.
SCALE: ARE FOR REFERENCE ONLY.



Prepared by:
Gloria Tandoi
NJDEP 2 July 1986
from LCP plot map
R-5 in evidence

KEY:

MH = MANHOLE

1 = NON-CONTACT COOLING WATER (Nccw) DISCHARGE

2 = BACKWASH TANK WASTEWATER DISCHARGE TO MANHOLE

3 = PIPE OUTLET (combined discharge of Nccw and backwash);
HARVEY KLEIN'S sampling location "FLUME 5"

4 = FLUME WATER; HARVEY KLEIN'S sampling location "FLUME 3"

5 = FLUME WATER; HARVEY KLEIN'S sampling location "FLUME 2"

6 = FORMER LCP DISCHARGE LOCATION

P-12 E
8/11/86
AR

ORIGINAL FILED
October 31, 1980

R-7 EV
R7
AR
12/11/80

SHANLEY & FISHER
550 Broad Street
Newark, New Jersey 07102
(201) 643-1220
Attorneys for Plaintiff,
Linden Chemicals & Plastics, Inc.

LINDEN CHEMICALS & PLASTICS,
INC., a Corporation of the
State of Delaware,

Plaintiff,

vs.

KUEHNE CHEMICAL COMPANY, INC.,
a Corporation of the State of
New Jersey, PETER R. KUEHNE,
ROGER F. GOETZEL, JOHN DOE
and RICHARD ROE,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: UNION COUNTY
DOCKET NO. L-11734-80

Civil Action

COMPLAINT

Linden Chemicals & Plastics, Inc., a corpora-
tion of the State of Delaware authorized to do business in
the State of New Jersey, with its New Jersey manufacturing
facilities located in Linden, New Jersey, by way of Com-
plaint against the defendants, says:

FIRST COUNT

1. Plaintiff is a corporation of the State of

Delaware authorized to do business in the State of New Jersey, which was known as Linden Chlorine Products, Inc. prior to June 5, 1978, and together with its wholly-owned subsidiary, LCP Chemicals-New Jersey, Inc. are collectively hereinafter referred to as "LCP".

2. Defendant Kuehne Chemical Company, Inc., (hereafter "K.C.C."), is a corporation of the State of New Jersey, with executive offices at 14 Commerce Drive, Cranford, New Jersey and manufacturing facilities in Linden, N.J. on property adjoining the LCP manufacturing facility in Linden, and on land leased from LCP.

3. Defendant Peter R. Kuehne is the president and chief executive officer of K.C.C., residing in Brevard, North Carolina. He has also been a member of the Board of Directors of LCP at all relevant times referred to herein.

4. Defendant Roger F. Goetzel, residing at 642 Rankin Road, Brielle, New Jersey, is Vice-President and general manager of K.C.C.

5. John Doe and Richard Roe are employees or agents of K.C.C. whose identities are presently unknown and who have knowingly engaged in the activities alleged herein, and participated in concert and individually to defraud and deprive LCP of its property and contractual rights as alleged herein.

6. The defendants Peter R. Kuehne and Roger F. Goetzel acted knowingly and willfully both individually and in concert with others and each other to deprive plaintiff of its property and its contractual rights as alleged herein.

7. Plaintiff and defendant K.C.C. entered into contracts and agreements with LCP, currently in effect, including but not limited to an agreement dated February 4, 1977, and maintained as a continuing course of dealing, the effectuation of those agreements, whereby LCP agreed to supply and K.C.C. agreed to purchase all of K.C.C.'s requirements of chlorine and caustic soda for manufacturing and marketing of bleach (sodium hypochlorite), and resale of chlorine and caustic soda.

8. K.C.C. was entrusted with, and agreed to assume, the responsibility to forward to LCP a truthful and accurate report of the quantity of chlorine and caustic soda taken by K.C.C. from LCP for use in the sodium hypochlorite manufacturing processes of K.C.C., resale of caustic soda, repackaging and sale of chlorine.

9. K.C.C. , Peter R. Kuehne, Roger F. Goetzel, John Doe and Richard Roe have acted in concert and individually to breach the contract of K.C.C. with LCP with respect

to K.C.C 's obligations to make such reporting and in fact were responsible for and did misrepresent the amounts of chlorine and caustic soda taken by K.C.C. from LCP both individually and as components of sodium hypochlorite.

WHEREFORE, plaintiff LCP demands an accounting, compensatory and punitive damages, interest and costs of suit.

SECOND COUNT

1. Plaintiff repeats and reiterates each of the allegations contained in the First Count of this Complaint as though fully set forth at length herein.

2. By such actions, the defendants, each of them individually and in concert, acted to, and did, convert the property of the plaintiff to their own use, and did so with the intention of depriving permanently the plaintiff of its possession of its property and its enjoyment to the proceeds from the sale of that property.

WHEREFORE, plaintiff demands an accounting, compensatory damages, punitive damages, interests and costs

THIRD COUNT

1. Plaintiff repeats and reiterates each of the allegations set forth in the First and Second Counts of this Complaint as if fully set forth at length herein.

2. Plaintiff and defendant K.C.C. entered into various agreements dated February 4, 1977, whereby defendant K.C.C. agreed to sell manufactured product of K.C.C. to customers of both K.C.C. and customers of LCP. Pursuant to said agreements, defendant K.C.C. undertook to remit to the plaintiff a portion of the profit it received from the delivery and sale of manufactured product.

3. The defendants, individually and in concert, raised sales prices but withheld from LCP required notifications as to such increases, a portion of which, by the aforementioned agreements, was due and owing to LCP.

4. In so doing, defendants breached or caused to have breached the agreements between LCP and K.C.C. as aforementioned.

WHEREFORE, the plaintiff demands a full accounting of the sale of all such products to customers of LCP and K.C.C., and furthermore demands compensatory damages, punitive damages, interest and costs.

FOURTH COUNT

1. Plaintiff repeats and reiterates each of the allegations set forth in the Counts above as if fully set forth at length herein.

2. The failure of defendants to notify LCP of the

increase in sales price was a fraudulent misrepresentation of the sales price and constituted a tortious conversion of the property of LCP to their own use and deprived LCP of its rightful use of its property.

WHEREFORE, the plaintiff demands a full accounting of the sale of all such products to customers of LCP and K.C.C., and furthermore demands compensatory damages, punitive damages, interest and costs.

FIFTH COUNT

1. Plaintiff repeats and reiterates each of the allegations set forth above as if fully set forth at length herein.

2. Contrary to and in breach of its agreement with LCP, K.C.C. and the individual defendants individually and in concert purchased chlorine and caustic soda from suppliers other than LCP.

WHEREFORE the defendants have willfully breached the agreement between LCP and K.C.C., and the plaintiff demands judgment as against each and all of the defendants for an accounting, compensatory and punitive damages, interests and costs.

SIXTH COUNT

1. Plaintiff repeats and reiterates each of the allegations set forth in the Counts above as if fully set

forth at length herein.

2. A portion of such material purchased from suppliers other than LCP was returned to LCP by K.C.C. under the misrepresentation by K.C.C. and the individual defendants, individually and in concert, that said material had been supplied by LCP's Linden plant and was defective.

3. Defendants did so falsely and with deliberate intent to mislead and defraud LCP by inducing LCP to issue credit memoranda against amounts due and owing for the return of this material.

4. LCP relied on said misrepresentations and issued credit memoranda on said material.

WHEREFORE, the defendants have breached the agreement between LCP and K.C.C., have defrauded LCP through the issuance of said false reports, and the plaintiff demands judgment as against each and all of the defendants for an accounting, compensatory and punitive damages, interests and costs.

SEVENTH COUNT

1. Plaintiff repeats and reiterates each of the allegations set forth in the Counts above as if fully set forth at length herein.

2. By agreement dated July 21, 1972, K.C.C. undertook to provide certain services, including loading and

shipping on the basis of reimbursement of cost plus a stated percentage.

3. The defendants individually and in concert, have falsely and deliberately overstated the service costs of rendering loading and shipping services to LCP by K.C.C., including the costs of loading and cleaning of trucks.

4. In so doing, LCP has been defrauded and has expended substantial funds for services as falsely reported by the defendants.

WHEREFORE, the plaintiff demands compensatory damages, punitive damages, interest and costs.

EIGHTH COUNT

1. Plaintiff repeats and reiterates each of the allegations set forth in the Counts above as if fully set forth at length herein.

2. By agreements oral and written, including an agreement dated July 21, 1972, K.C.C. undertook to serve as a carrier for product of LCP to be delivered to customers of LCP.

3. In breach of the aforesaid agreement, and in breach of its duty as a carrier, K.C.C. and the individual defendants converted said products including, but not limited to, chlorine, caustic and muriatic acid, to their own use.

WHEREFORE, the plaintiff demands an accounting, compensatory and punitive damages, interest and costs.

NINTH COUNT

1. Plaintiff repeats and reiterates each of the allegations set forth in the Counts above as if fully set forth at length herein.

2. By agreement dated February 4, 1977, K.C.C. undertook to purchase its requirements of chlorine and caustic soda from LCP and agreed that the terms of payment would be net cash in thirty (30) days from the date of invoice.

3. K.C.C. has frequently and repeatedly failed to pay for the product it purchased as required under said agreement.

WHEREFORE the plaintiff demands a judgment declaring K.C.C. to be in default under the agreement of February 4, 1977 and further demands an accounting, compensatory damages, interest and costs.

TENTH COUNT

1. Plaintiff repeats and realleges all of the allegations made in the previous Counts of the Complaint.

2. LCP and K.C.C. and Peter R. Kuehne have had a business relationship based on trust and confidence extending over several years whereby, among other things,

LCP sells its product to K.C.C., uses K.C.C. at times as its carrier and to perform certain services, leases to K.C.C. the property on which K.C.C.'s facilities are located and shares certain common facilities with K.C.C. Additionally, the defendant Peter R. Kuehne is a director and shareholder of LCP and is in a position of trust and confidence and privy to insider information.

3. K.C.C., through Peter R. Kuehne, its president and chief executive officer, has offered to purchase the Linden assets of LCP at below fair value, but LCP rejected the offer.

4. During at least the last three years, unknown to LCP, the defendants were deliberately and systematically engaged in an effort to harm and destroy LCP financially and to harm or destroy its business reputation in order that K.C.C. might take over, at a reduced price, LCP's Linden plant, facilities and customers.

5. In the course of this effort defendants have, among other things:

- a. Converted LCP products to their own use;
- b. Purchased materials from another supplier in breach of the agreement between K.C.C. and LCP;
- c. Returned inferior or defective material to LCP, covertly and overtly, misrepresenting the material to

be LCP product and obtaining a credit from LCP to which they were not entitled;

d. Increased sales prices to profit share customers without notifying LCP and without sharing such price increases with LCP;

e. Misrepresented K.C.C.'s costs in order to deprive LCP of its rightful profit.

f. Overcharged LCP for certain services.

6. By such acts and conduct defendants have tortiously and maliciously interfered with LCP's prospective economic advantage; caused loss of profits and increased operating expenses; and damaged LCP's future earnings.

WHEREFORE, plaintiff demands compensatory damages, punitive damages, interest, and costs of suit.

ELEVENTH COUNT

1. Plaintiff repeats and realleges all of the allegations made in the previous Counts of the Complaint.

2. Defendant Peter R. Kuehne, as a director of LCP, owed a fiduciary duty to LCP.

3. Defendant Peter R. Kuehne breached these fiduciary duties.

WHEREFORE, plaintiff demands compensatory damages, punitive damages, interest and costs of suit against defendant Peter R. Kuehne.

TWELFTH COUNT

1. Plaintiff repeats and realleges all of the allegations made in the previous Counts of the Complaint.

2. As a member of the Board of Directors, Peter R. Kuehne had access to knowledge of confidential financial and business information relating to corporate opportunities of LCP.

3. Peter R. Kuehne wrongfully appropriated and usurped said corporate opportunities for his own benefit and the benefit of the other defendants.

WHEREFORE, plaintiff demands compensatory damages, punitive damages, interest and costs of suit against defendant Peter Kuehne.

THIRTEENTH COUNT

1. Plaintiff repeats and reiterates each of the allegations contained in the First Count of this Complaint as though fully set forth at length herein.

2. K.C.C. currently conducts its manufacturing operation on land leased from LCP pursuant to a written lease dated July 21, 1972 which has expired but tenant continues to occupy the premises as a holdover tenant.

3. Tenant has repeatedly violated Federal, State and City law, regulations and ordinances by the discharging

of sodium hypochlorite into the waters of the state.

4. Such discharges have created a nuisance, generated noxious fumes and otherwise materially affected the operations of Plaintiff so as to subject K.C.C. to forfeiture of its holdover tenancy.

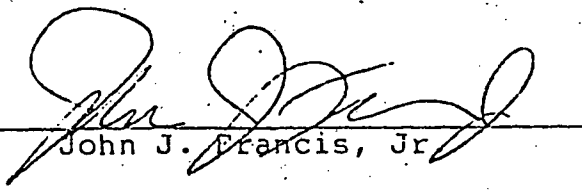
WHEREFORE, Plaintiff demands judgment declaring that K.C.C.'s tenancy may be terminated by plaintiff.

JURY DEMAND

Plaintiff Linden Chemicals & Plastics, Inc. hereby demands a trial by a jury on all issues.

SHANLEY & FISHER, ESQS.
Attorneys for Plaintiff,
Linden Chemicals & Plastics, Inc.

By


John J. Francis, Jr.

LINDEN CHEMICALS & PLASTICS INC.

Raritan Plaza II • Raritan Center • Edison, New Jersey 08817 • 201-225-4840

January 27, 1981

HAND DELIVERED

Kuehne Chemical Company, Inc.
14 Commerce Drive
Cranford, New Jersey 07016

Attention: Mr. Roger Goetzel
Vice President & General Manager

Gentlemen:

On January 26, 1981 Kuehne Chemical Company took LCP chlorine and caustic soda, manufactured sodium hypochlorite using such products, and discharged sodium hypochlorite together with caustic soda to the sewer in violation of New Jersey DEP and Federal EPA regulations. LCP also believes that Kuehne Chemical Company took LCP products, manufactured sodium hypochlorite and dumped sodium hypochlorite and caustic soda to the sewer on numerous other dates. Taking such products without notifying LCP and paying LCP for same constitutes unlawful use of LCP products and is a breach of the LCP and KCC product sales agreements dated February 4, 1977. Such discharges are illegal, have created a nuisance, generated noxious fumes and otherwise materially affected LCP's operations so as to subject Kuehne Chemical Company to forfeiture of its tenancy. Consequently, notice is hereby given to Kuehne Chemical Company that its tenancy is terminated effective on the close of business on February 28, 1981.

Furthermore, since Kuehne Chemical Company persists in its refusal to pay for products purchased, which is another breach of the product sales agreements between KCC and LCP dated February 4, 1977, all sales of chlorine and caustic soda to Kuehne Chemical have been stopped until payments in arrears aggregating \$1,174,918.69 are brought up to date.

Very truly yours,


C. A. Hansen

CAH:jm

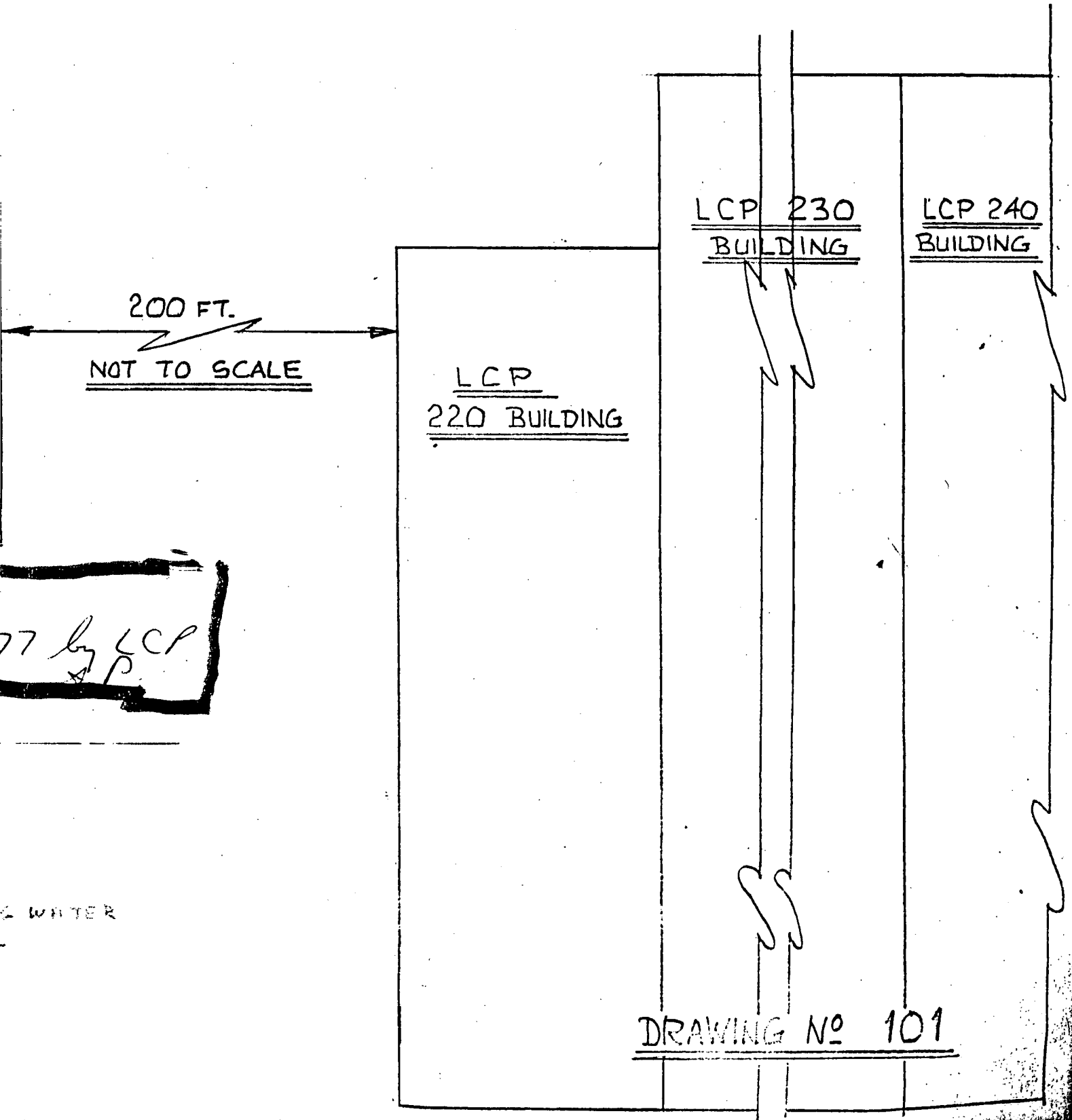
cc: Mr. Peter R. Kuehne
Mr. Scott C. Charlop

00036

R-9

AP

12/16/78

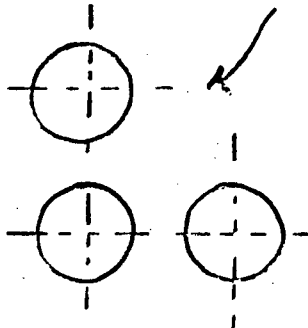


77 by LCP
AP

THREE 40FT.
CAUSTIC S
TANKS

COVERED FLUME

HCl STORAGE TANKS
10FT. DIA



L.C.P. LAB. & LOCKER ROOM

CONCRETE PAD

10" WIDE DRAINAGE TRENCH *over of*
Greater through 1

CURTAINING

SEE DWG. NO 102

CATCHBASIN

5FT. DIA. X 20FT
LONG HORIZONTAL
TANK

BLEACH FILTERS (2)
12" DIA. FLGD.

6FT. DIA. TANK

TO LIME TREATMENT
FACILITY

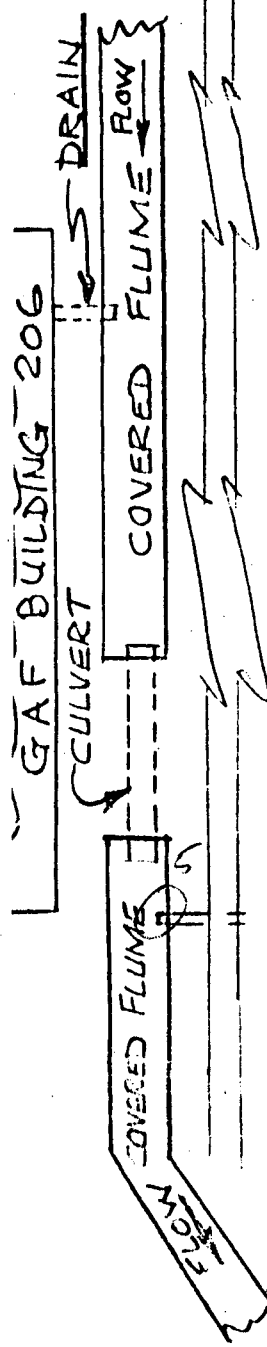
SHED

8FT. DIA. TANK

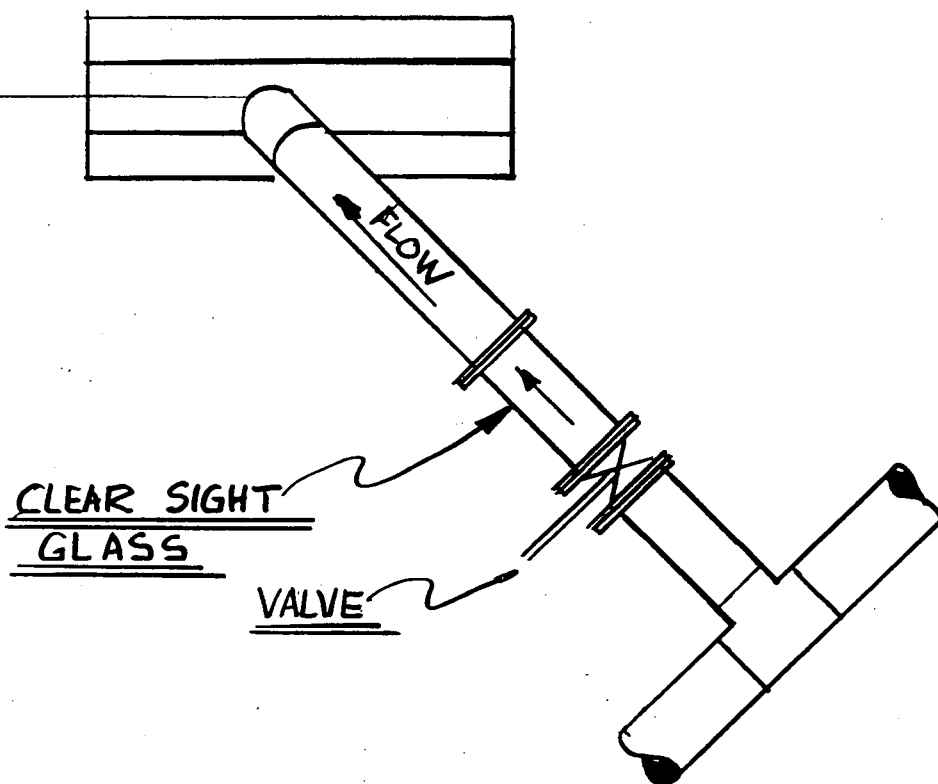
KCC
CONTROL
HOUSE

NON-CONTACT COOL
DISCHARGE FROM

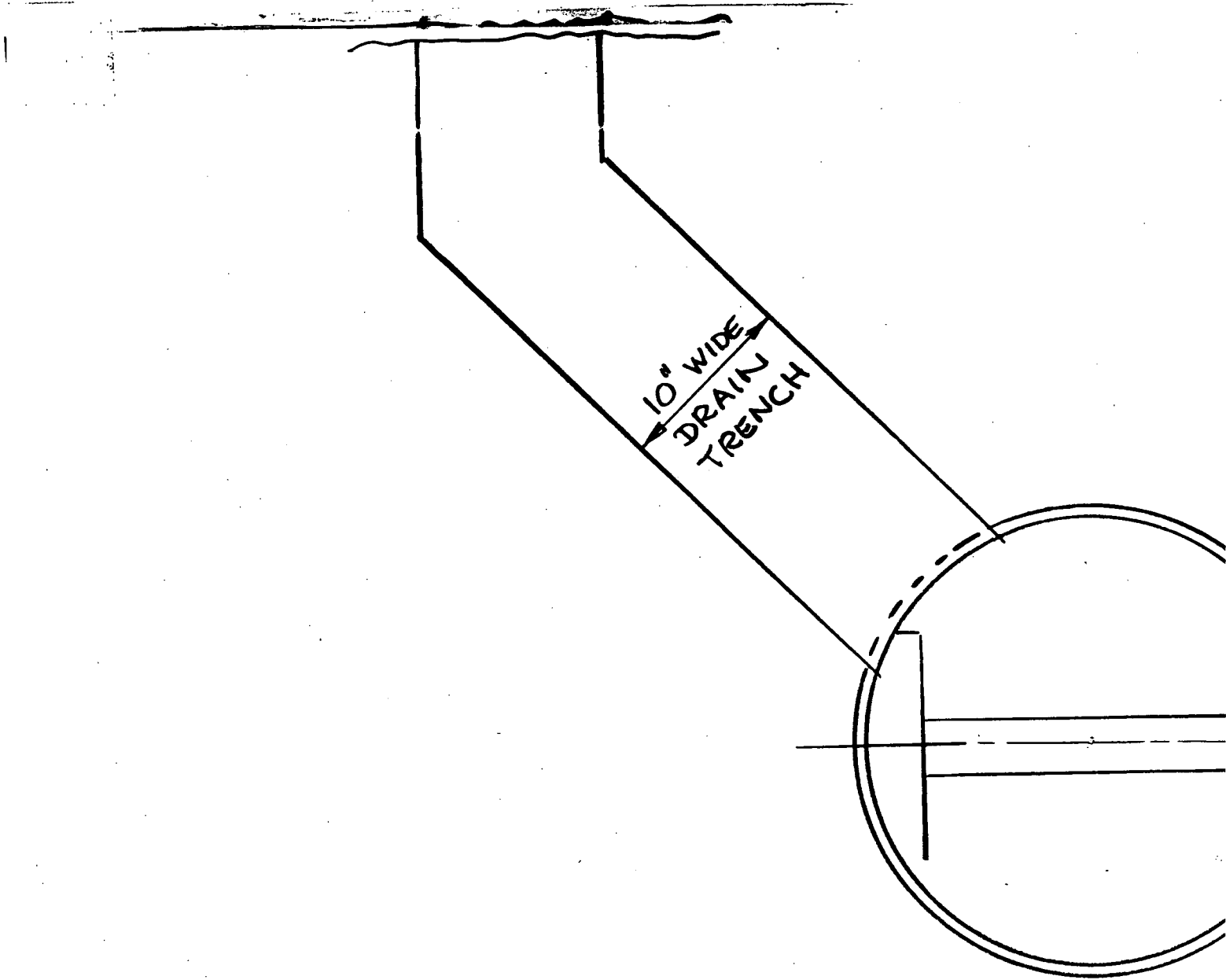
3 10FT. DIA. TANKS (3)



R-14a



DRAWING NO 103



CONTINUED FROM
DRAWING NO 101

DRAIN FOR
SPILLED HYDROCHLORIC AC
STEAM CONDENSATE AND
RAINWATER RUNOFF

UNDERGROUND
12" CONCRETE PIPE
TO FLUME
ADJACENT TO GAF BUILDING 206

10" WIDE
DRAIN
TRENCH

FLOW

CONCRETE

3"
WI

FLOW

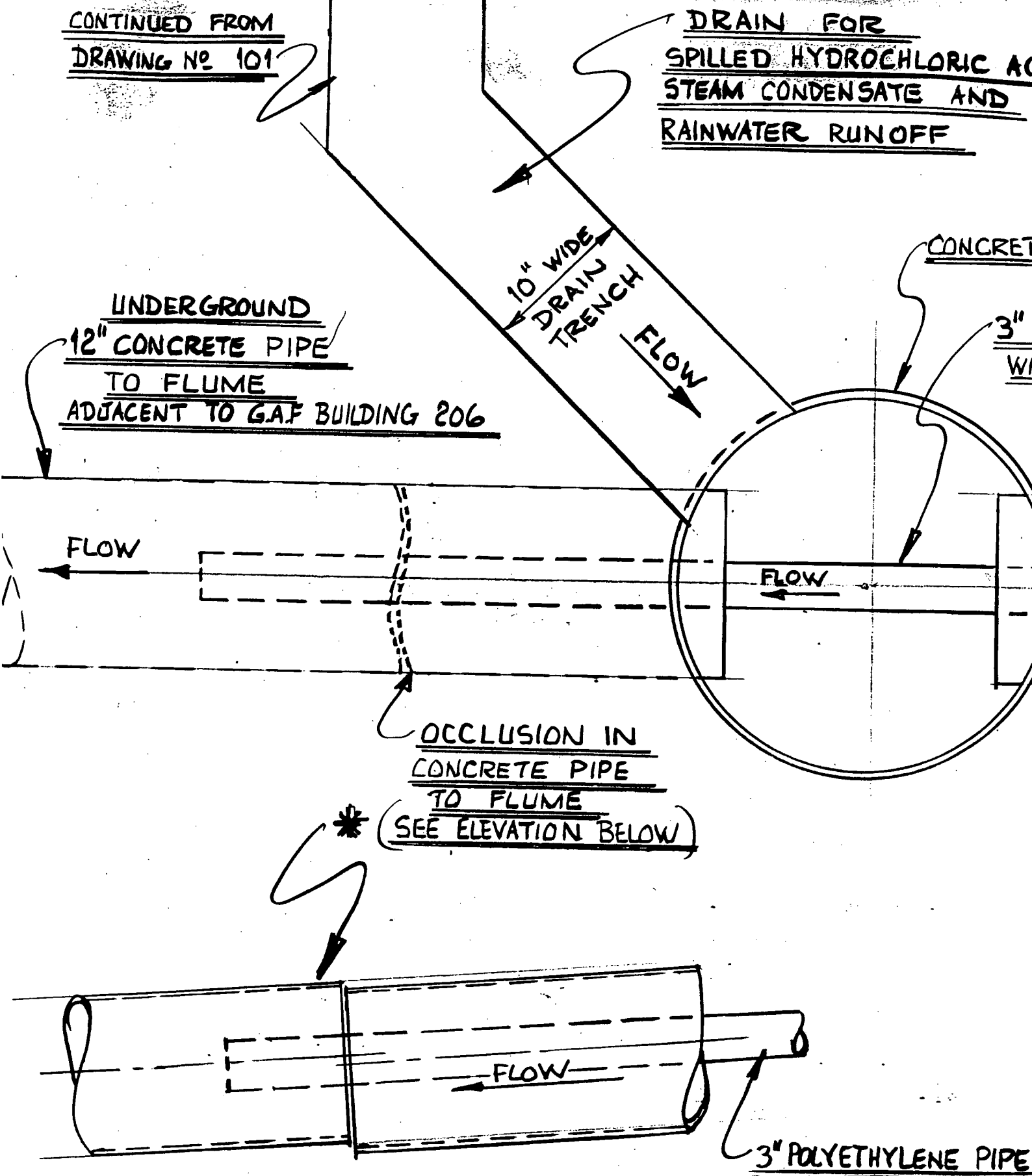
FLOW

OCCCLUSION IN
CONCRETE PIPE
TO FLUME
(SEE ELEVATION BELOW)

FLOW

3" POLYETHYLENE PIPE

ELEVATION SHOWING DISPLACEMENT
IN 12" CONCRETE PIPE



R-146

SEWER & DRAIN
LINES FROM LCP LAB.
& LOCKER ROOMS

CATCHBASIN

ETHYLENE PIPE
IN 12" CONCRETE PIPE

SURFACE OPENING
DOWN TO DRAIN BELOW

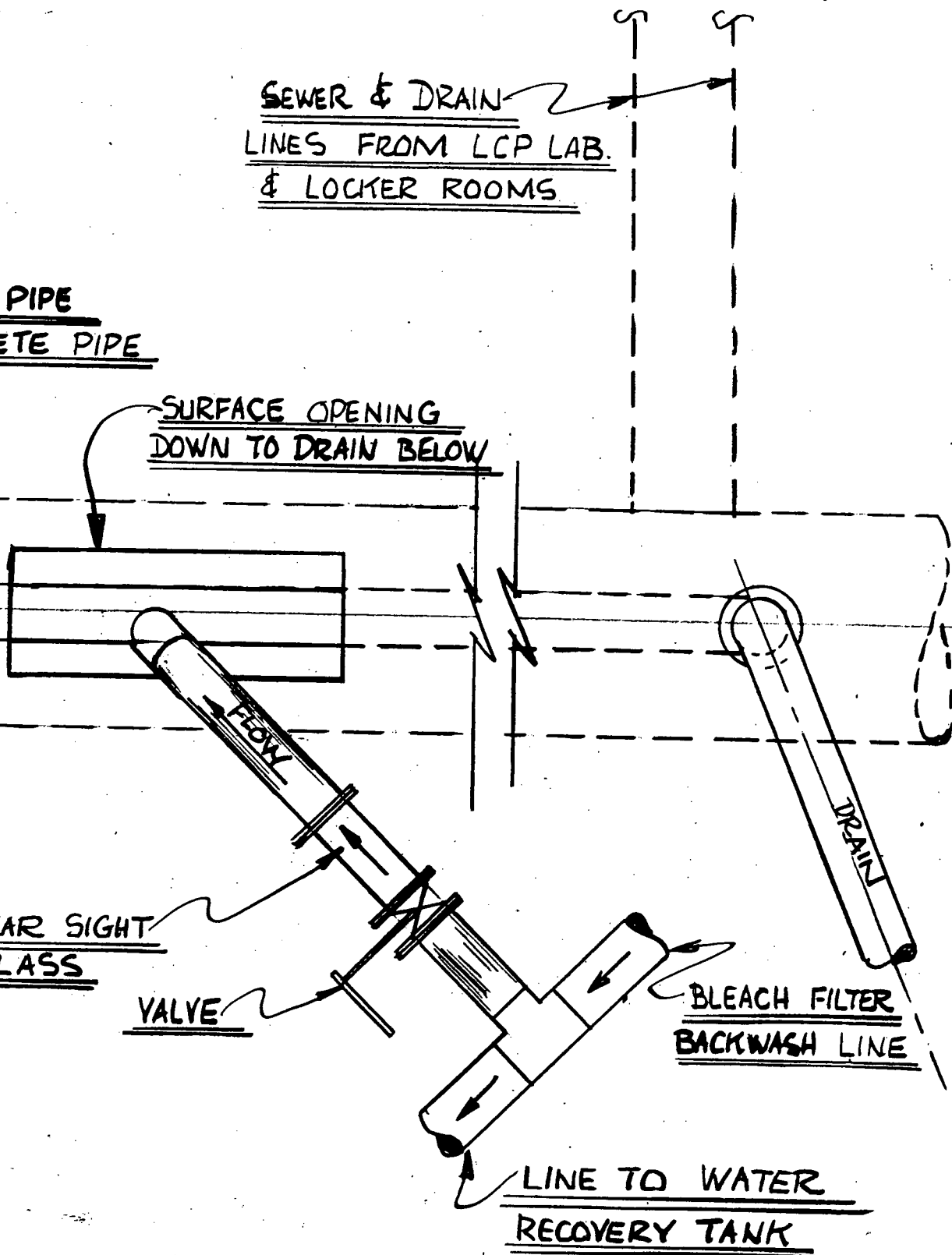
CLEAR SIGHT
GLASS

VALVE

BLEACH FILTER
BACKWASH LINE

LINE TO WATER
RECOVERY TANK

DRAWING NO 102



DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Water Resources
Pollution Control Monitoring,
Surveillance and Enforcement Element

PHONE CALL

REPORT OF:

VISIT

R-15
Kuc AR 12/11/1

In ☒ Out ☐

File _____

Date 2-13-81

Routing C. Johnson

Time 10:30 AM

Person Contacted Joe Larkin Phone # 201-862-1212

Affiliation Plant Manager

Subject of Call
Visit Discharge from pipe

Summary of Call
Visit Mr. Larkin stated he observed the pipe that

was investigated ≈ 2 weeks ago by the DEP's Linden Chlorine Products
and there is a discolored flow coming out of the pipe today. He
requested that an inspector come up today and observe this.

The writer told him we are short handed today and suggested
he show the discharge to someone at Linden Chlorine Products.

20 gal/min

Action Recommended _____

Charlie March

Signature



CHEMICALS-N.J., INC.

A Subsidiary of Linden Chemicals & Plastics, Inc. • P.O. Box 484 • Linden, NJ 07036 • (201) 862-1666

RECEIVED

R-16

NJ
DIV WATER RESOURCES
HS&E

A.R.

February 18, 1981

1-2/16/81

Mr. Charles Johnson
Dept. of Environmental Protection
Division of Water Resources
P.O. Box CN029
Trenton, New Jersey 08625

Dear Charlie:

Confirming our conversation of February 14, 1981.

Following his phone conversation to you regarding the contamination of the flume at the point of our prior excavation, Joe Larkin of Kuehne Chemical Co. notified the Linden Board of Health.

A Mr. Henry Gavan of the Board of Health came into the plant on February 14, to inspect the site. He told Larkin that he knew the DEP was involved and that being the case, "He had no jurisdiction and could provide no assistance in what was obviously an offspring of a complex civil matter."

On the 14th, the water entering the flume at the point of excavation was approximately 5 GPM of groundwater with a ph of 11.2. Downstream of the flume, this small flow had diluted sufficiently to yield a ph of less than 8. This typifies what our analysis has been since Kuehne curtailed operations at Linden, i.e., flow rates of 0-5 GPM with a ph range of 9.5 to 11.5, that dilute to within normal levels in a relatively short span of the flume.

The phenomena is obviously ground water and tidal backwash leaching caustic soda from the contaminated soil in the area of the previous Kuehne Chemical dumping site.

Will keep you appraised of any further development.

Sincerely,

W. J. Fledderman
W.J. Fledderman,
PLANT MANAGER

WJF/ph

cc: Messrs. K. Ornsdorff - DEP
C.A. Hansen - LCP
R.J. Burkett - LCP